

Virginia Department of Health (VDH)
Sewage Handling and Disposal Advisory Committee (SHADAC)
Regulatory Reform Subcommittee
June 29, 2016 – Meeting Summary

Meeting Location:

6th Floor, Room 639
Madison Building
109 Governor Street
Richmond, Virginia 23219

List of Attendees:

Subcommittee Members

Alan Brewer Morgan Kash Valerie Rourke Curtis Moore

Mr. Kash sat in for Bill Sledjeski as the Virginia Association of Professional Soil Scientist representative.

VDH Staff and Members of the Public

Lance Gregory

1. Welcome and review of previous meeting summary.

Mr. Brewer welcomed members to the meeting. The members then discussed the meeting summaries for the March 10, 2016 and May 11, 2016 meetings.

Mr. Moore made a motion to accept the changes to the March 10, 2016 meeting summary provided by Mrs. Rourke and approve the summary. Mr. Kash seconded the motion. All members voted in favor.

Mr. Moore made a motion to approve the May 11, 2016 meeting summary. Mr. Kash seconded the motion. All members voted in favor.

2. Draft mission statement.

Next the subcommittee worked to finalize a stated goal for the subcommittee. The group agreed that the statement was not really a mission statement, but rather a set of criteria for development of recommendations to be shared with the full SHADAC. The subcommittee agreed to the following:

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.

3. Discussion of overarching – big picture – challenges.

Next, the subcommittee discussed the list of challenges and issues, and discussed how the group could define in simple terms each of the category of challenges.

Regarding the category of paradigm shift, the subcommittee agreed on the following explanation:

A paradigm shift is a fundamental change in approach or underlying assumptions. One example is how the onsite program protects public health and the environment, not looking at just lot by lot, but looking at the onsite program from a community view.

Mr. Gregory agreed to draft descriptions for the other categories for the subcommittees review at the next meeting.

4. Discussion on potential options for regulatory reform.

There was general agreement among the subcommittee that it shouldn't limit options being presented to the full SHADAC to only those options the subcommittee thinks will work.

The subcommittee first provided the following option for conflicting regulations as they relate to local ordinances:

- Codify that VDH will enforce local ordinances when they are more stringent than state requirements.
- Create a model ordinance that localities could choose to put into place, so every locality has the same standard for items not included in the regulations.
- Prohibit localities from having a local ordinance that is more stringent than the state regulations.

Next the subcommittee discussed options for conflicting regulations, both internally at VDH and with other agency's regulations:

- Create a process where VDH's regulation are a higher level view of requirement, and then allow VDH to create an implementation manual to implement those regulations. VDH could then revise the implementation manual without going through the regulatory process every time.
- Combine some regulations.
- VDH could conduct a comprehensive assessment of all the regulations, to identify and resolve the conflicts.
- VDH could look at all of the policies and codify areas where there needs to be an enforceable requirement rather than guidance.
- VDH could review county ordinances and national industry standards and pull good ideas into the regulations.

- The Commissioner could advocate for a national model code. If a national model code becomes available, shift to the building code model for adoption regulations.
- VDH could work with other agencies in a more prescribed manner than just having them sit on the SHADAC or other committees; have the different agencies meet at some frequency to discuss programmatic changes and overlap. The first point of discussion among the inter-agency meetings could be to determine where conflicts exist.
- Eliminate the regulations and let local governments or another agency take it over.

The subcommittee provided the following options regarding reforms for resource issues:

- Establish a repair fund.
- Charge fees for services that currently do not have a fee (e.g. repairs).
- Could incorporate a funding structure into new fees.
- Work with DEQ, DCR and other partners to get greater access to funds for onsite sewage system projects (Virginia Clean Water Revolving Loan Fund, 319 grants, etc.).
- Evaluate a potential program where VDH is backing betterment loans.
- Allow localities to establish sewer service districts county wide. 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 meeting then adjourned.

Second Meeting of the Regulatory Reform Subcommittee

June 29, 2016, 10:00 a.m. - 12:00 p.m.

109 Governor Street, Richmond, 6th Floor, Room 639

Objectives for the Fourth Meeting:

- Finalize draft mission statement for the subcommittee.
- Finalize list of challenges.
- Begin to identify options for regulatory reform to address challenges.

AGENDA

10:00 a.m. **1. Welcome and review of previous meeting summary.** (Alan Brewer)

10:05 a.m. **2. Draft mission statement.**

(Subcommittee)

10:15 a.m. **3. Discussion of overarching – big picture – challenges.**

(Subcommittee)

11:00 a.m. **4. Discussion on potential options for regulatory reform.**

(Subcommittee)

Adjourn

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 (e.g., continuing to do things the same way because that's the way it has always been done).	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
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	Paradigm Shift

Challenge / Issue	Category
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.	
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