

Virginia Department of Health (VDH)
Sewage Handling and Disposal Advisory Committee (SHADAC)
Regulatory Reform Subcommittee
August 31, 2016 – Meeting Summary

Meeting Location:

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

List of Attendees:

Subcommittee Members

Alan Brewer Morgan Kash 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 summary from the June 29, 2016, meeting.

Mr. Moore made a motion to approve the summary. Mr. Kash seconded the motion. All members voted in favor.

2. Draft potential options for program administration.

While reviewing the list of challenges, the subcommittee noted that most of the challenges in the resource section dealt with repairs and repair fund. The subcommittee considered recommending that the full SHADAC also review options for resources in the HB 558 report.

Next the subcommittee discussed the following options for reforms related to program administration:

- Could say by policy that VDH will not enforce local ordinances.
- Codify or mandate that local ordinance have to follow the APA for onsite sewage system ordinances.

- If the local health department (LHD) enforces a local ordinance, allow appeals of local ordinances could go through VDH.
 - Go back to having regional sanitarians to help with consistency across the state.
 - Only put in the regulations what VDH is willing to take someone to court on.
 - Need to match VDH resources with the risk; focus VDH resources on those things that have the highest risk to public health. This would require taking an overall look at responsibilities, resources, and outcomes.
 - Provide stakeholders with the agency's goals and measures for the program.
 - Hire a third-party consultant to evaluate VDH's the responsible task of the agency and the risk associated with those tasks to determine where resources should be directed.
 - VDH evaluates its responsible task and risk associated with those tasks to determine where resources should be directed.
 - Change the way VDH inputs and uses data to improve enforcement of alternative onsite sewage system (AOSS) operation and maintenance (O&M).
 - Reallocated more resources to O&M.
 - Administering the O&M from a central office level; evaluate the potential to centralize the initial enforcement phase for O&M (e.g. sending notices to owners).
 - Utilize the private sector more for data entry and collection.
 - Propose a statutory or regulatory change that licensees should have their license taken away if they falsify a document.
 - Instead of making the owner responsible for the O&M of the system, make the operator of the system responsible or joint responsibility. Then the operator is responsible for compliance and enforcement.
 - Create a renewable operating permit for all AOSS, not just large systems.
 - Rather than O&M, create more conservative regulation (e.g. more conservative site condition requirements).
 - Create a program for conventional onsite sewage system O&M.
 - VDH staff performs non-enforcement contacts with owners when potential issues are observed, but the issues don't rise to the level of enforcement.
3. Draft potential options for paradigm shift.

The subcommittee then discussed the following options for reforms related to paradigm shift:

- Engage someone outside of VDH to evaluate refocusing efforts on what is really important; don't do things just because they've always been done.
- VDH establishes an internal working group with to improve communication between other offices and agencies.
- Where there is jurisdictional overlap with other agencies, have VDH provide more information to the other agencies regarding human health impacts.

- Modify the program from a watershed perspective not a statewide basis.
- Incorporate responsible management entity (RME) model into the regulatory scheme.
- Evaluate whether there are other VDH programs (Community Health Services, Health Equity) that can assist with community health issues related onsite sewage and private wells.
- Use a risk based regulatory model that takes into account items like sensitive sites and lot size.
- Allow licensed entity's to design and install systems outside of the regulations provided they are willing to put up bonding for the system.
- Require that completion statements are signed by a licensed installer.
- Require that only licensed operators get hauler permits; VDH inspector has to certify that the installer is licensed.

4. Discuss final report to full committee.

The subcommittee agreed to prepare a memo to the full SHADAC describing 1) what the subcommittee was asked to do, 2) the process the subcommittee used to develop options, and 3) the list of options the subcommittee developed.

Adjourn

Fifth Meeting of the Regulatory Reform Subcommittee

August 31, 2016, 1:00 p.m. - 3:00 p.m.

109 Governor Street, Richmond, 5th Floor, Small Conference Room

Objectives for the Fourth Meeting:

- Finalize options for regulatory reform to address challenges.
- Develop plan for presenting options to the full committee.

AGENDA

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

1:05 p.m. **2. Draft potential options for program administration.**
(Subcommittee)

1:50 p.m. **3. Draft potential options for paradigm shift.**
(Subcommittee)

2:35 a.m. **4. Discuss final report to full committee.** (Subcommittee)

Adjourn

Virginia Department of Health
Sewage Handling and Disposal Advisory Committee
Regulatory Reform Subcommittee

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
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	Paradigm Shift

Challenge / Issue	Category
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