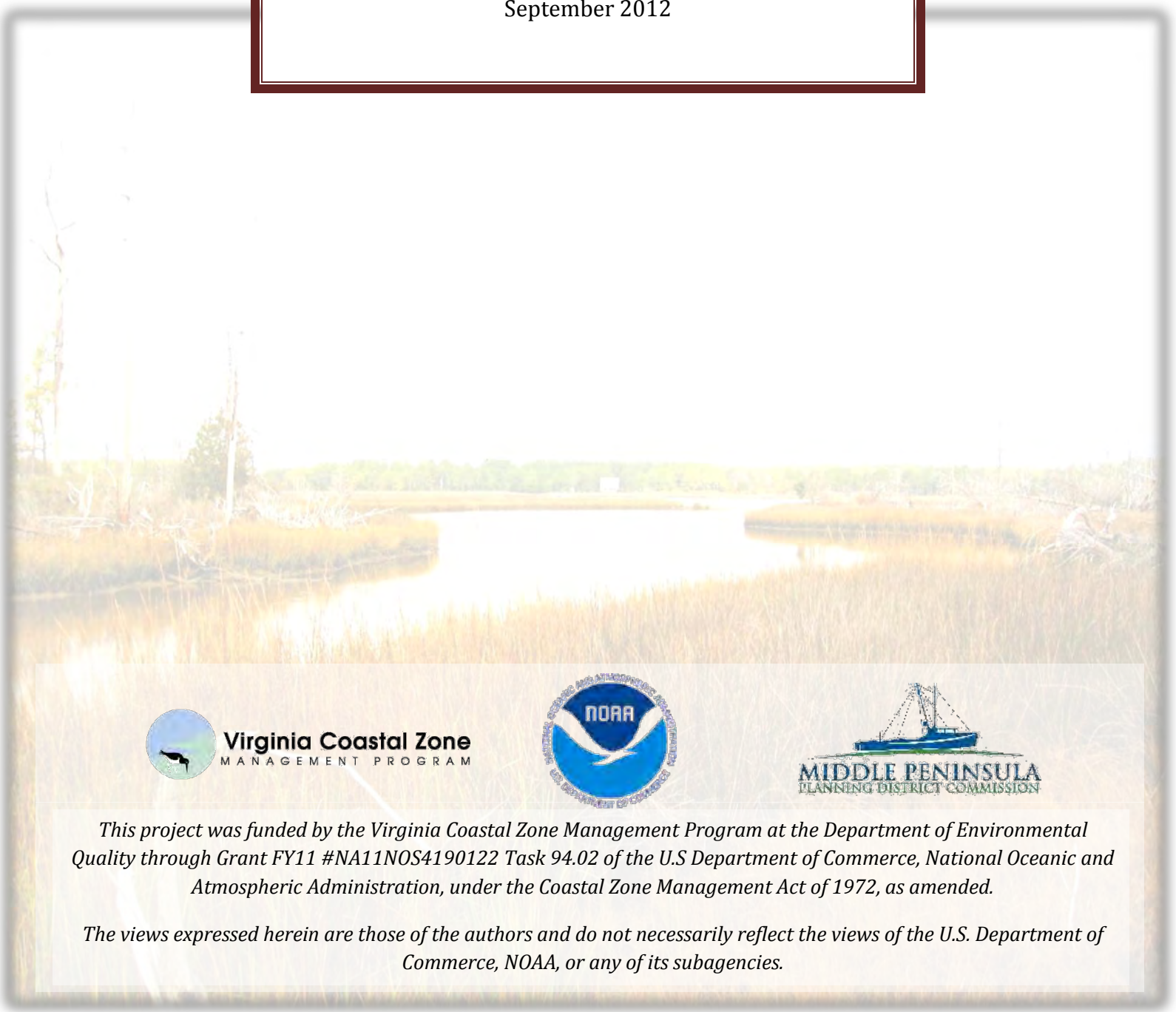
Land and Water Quality Protection in Middle Peninsula

September 2012



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Abbreviations:

AOSS – Alternative Onsite Sewage System

BOS – Board of Supervisors

DCR - Department of Conservation and Recreation

DEQ – Virginia Department of Environmental Quality

DSS – Division of Shellfish Sanitation

HRSD – Hampton Roads Sanitation District

MPPDC – Middle Peninsula Planning District Commission

NFWF - National Fish and Wildlife Foundation

NNPDC – Northern Neck Planning District Commission

OSDS – Onsite Sewage Disposal System

TMDL – Total Maximum Daily Load

VAAO - Virginia Association of Assessing Officers

VDH – Virginia Department of Health

VIMS – Virginia Institute of Marine Science

VPA – Virginia Pollution Abatement Permit

VPDES - Virginia Pollutant Discharge Elimination System

VWP – Virginia Water Protection Permit

WIP – Watershed Implementation Plan

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Executive Summary

In light of changing Federal and State regulations associated with Chesapeake Bay nutrient goals (ie. Total Maximum Daily Loads (TMDL), clean water, onsite sewage disposal system (OSDS)/ alternative onsite sewage system (AOSS) management, and storm water management), Middle Peninsula Planning District Commission (MPPDC) directed staff to develop a rural pilot project aimed at identifying pressing coastal issue(s) of local concern. MPPDC staff worked to develop, assess, and articulate enforceable policy tools necessary to assist localities with the reduction of nutrient loadings by evaluating a series of environmental factors anticipated to support, clarify, prepare, and maximize locality or regional participation proposed in the Chesapeake Bay TMDL Phase II Watershed Implementation Plan.

With the passing of HB 1065 in April 2012, the Erosion and Sediment Control Act, the Stormwater Management Act, and sections of the Chesapeake Bay Preservation Act regulatory programs were integrated into one consistent regulation. The bill also eliminated the Chesapeake Bay Local Assistance Board and places its responsibilities with the Virginia Soil and Water Conservation Board. Thus with guidance from the State regarding many of the factors influencing water quality, the State provided limited guidance for failing onsite septic systems. As failing systems within the Middle Peninsula persist and continue to impact local water quality, year one of this project focused on understanding the failing septic system enforcement process; the mechanics of establishing a sanitation district or sanitary district to manage the temporal deployment of nutrient replacement technology for installed OSDS/AOSS; and the impacts of Virginia Department of Health (VDH) Emergency Regulations on land use and reassessment.

Through the development of the Middle Peninsula Watershed Implementation Plan committee, MPPDC staff and consultants found communication gaps within the current enforcement process for failing septic systems that may hinder homeowners and VDH in fixing failing/leaking septic systems. As these gaps were specifically identified, the committee and MPPDC staff have recommended and implemented solutions to improve the current enforcement process. Additionally, year one of this project was devoted to positioning Middle Peninsula localities in order to respond comprehensively to recent water quality mandates (ie. Erosion and Sediment Control Act integrated the Stormwater Management Act). MPPDC

applied for and was rewarded two grants: (1) National Fish and Wildlife Foundation (NFWF) to develop a Regional TMDL and Stormwater Management Program (Up to $150,000 in technical services) and (2) Department of Conservation and Recreation (DCR) to explore options and coordinate regional efforts when responding to the new stormwater regulations ($99,857).

Project Background

To initiate discussions about Chesapeake Bay TMDL Phase II Watershed Implementation Plan (WIP), MPPDC Commissioners received a presentation from the Secretary of Natural Resources office on April 27, 2011 (Appendix A). In response to the presentation Middle Peninsula Commissioners asked the Secretary questions regarding stakeholder involvement in regulations, onsite systems, lack of Middle Peninsula region representation on the stakeholders advisory committee for local governments, communication with health departments, localities assistance in collecting information, Federal and State funding resources, and the role of the MPPDC in Phase II and Phase III WIPs.

Discussions continued in June 2011 at the monthly MPPDC meeting. For this meeting, MPPDC staff organized a panel of professionals to answer questions posed about policy on water quality. The panel consisted of Allen Knapp, Director of Division of Onsite Sewage of the VA Department of Health (VDH); Dr. Bob Croonenberghs, Director of Shellfish Sanitation of VDH; David Sacks, Assistant Division Director of Department of Conservation and Recreation/Chesapeake Bay Local Assistance Department (DCR/DCR/CBLAD); A. J. Erskine, Aquaculture Manager and Field Scientist of Bevans Oyster Company; and Dr. Jim Pyne, Chief of Small Communities Division of Hampton Roads Sanitation District (HRSD). The panel discussion included questions and answers regarding failing septic systems, impacts on the aquaculture/seafood industry, and the Chesapeake Bay clean up from the local government's perspective. Questions and answers addressed by the panel may be found in Appendix B.

Based on these discussions in early 2011, there was an obvious need to continue dialog as more questions than answers were raised. Then with the passing of HB 1065 in April 2012, the Erosion and Sediment Control Act, the Stormwater Management Act, and the Chesapeake Bay Preservation Act regulatory programs were integrated into one consistent regulation. Thus while the State provided guidance with WIP and the TMDL influencing water quality, the State

did not provide limited guidance for failing onsite septic systems. As failing systems within the Middle Peninsula persist and continue to impact local water quality, it was decided that year one of this project would focus on understanding the failing septic system enforcement process and associated solutions.

Product #1: Formation of project committee structure

As failing septic systems are recurring problem in the Middle Peninsula, they are both a water quality and health issue for the region. Most people in the Middle Peninsula have conventional septic systems that are made up of a septic tank and soil absorption system, known as the drainfield, leachfield, or disposal field. Underground pipes connect the entire system. An increasing number of people have an advanced secondary treatment or "engineered system." Therefore MPPDC staff created a committee of professionals to begin understanding the process for addressing failing septic systems within the region (ie. What does the enforcement process look like?).

Failing septic systems have the opportunity to contribute to source water contamination through improper location, poor design, faulty construction, incorrect operation or poor maintenance of the system. As a water quality issue facing this region, non-functioning septic systems contribute to waterways failing to meet federal water quality standards, particularly the TMDL allocations, and has threatened local shellfish aquaculture. For example, shellfish aquaculture businesses within Mathews County have been closed due to water quality violations (ie. The presence of fresh fecal matter) stemming from onsite systems. Septic pumpout programs and enforcement of regulations regarding repair and replacement of failing systems is one of the identified tools recommended in the Phase II WIP for Virginia's rural communities.

Since 2009, the MPPDC has been active in trying to provide tools to regional localities to offer incentives for repairing and/or replacing failing systems. Through a series of septic enforcement meetings in the summer of 2011 and a water quality public policy forum at VIMS organized by the MPPDC with participants from the VDH , HRSD, VDH-Division of Shellfish Sanitation (DSS), local governments and the aquaculture industry, gaps in the enforcement process became more apparent.

To begin to delve into these enforcement issues and attempt to develop a new enforcement model, staff conducted a series of interviews with the following people to gather background information on the topic: Allen Knapp and Peter Basanti, Central office, VDH; David Fridley, Three Rivers Health District; Stuart McKenzie, Northern Neck Planning District Commission (NNPDC); and Lewis Lawrence and Beth Johnson, MPPDC.

These interviews provided valuable information about the history of the septic enforcement issue and why it was important to identify problems within the current process. While adequate laws are in place, specifically Virginia Code section §32.1-164 and the penalties outlined in Virginia Code section §32.1-27, wherein violations of onsite septic provisions are deemed a class 1 misdemeanor punishable by jail or fines, there are still circumstances where identified failed systems are not being corrected for many years.

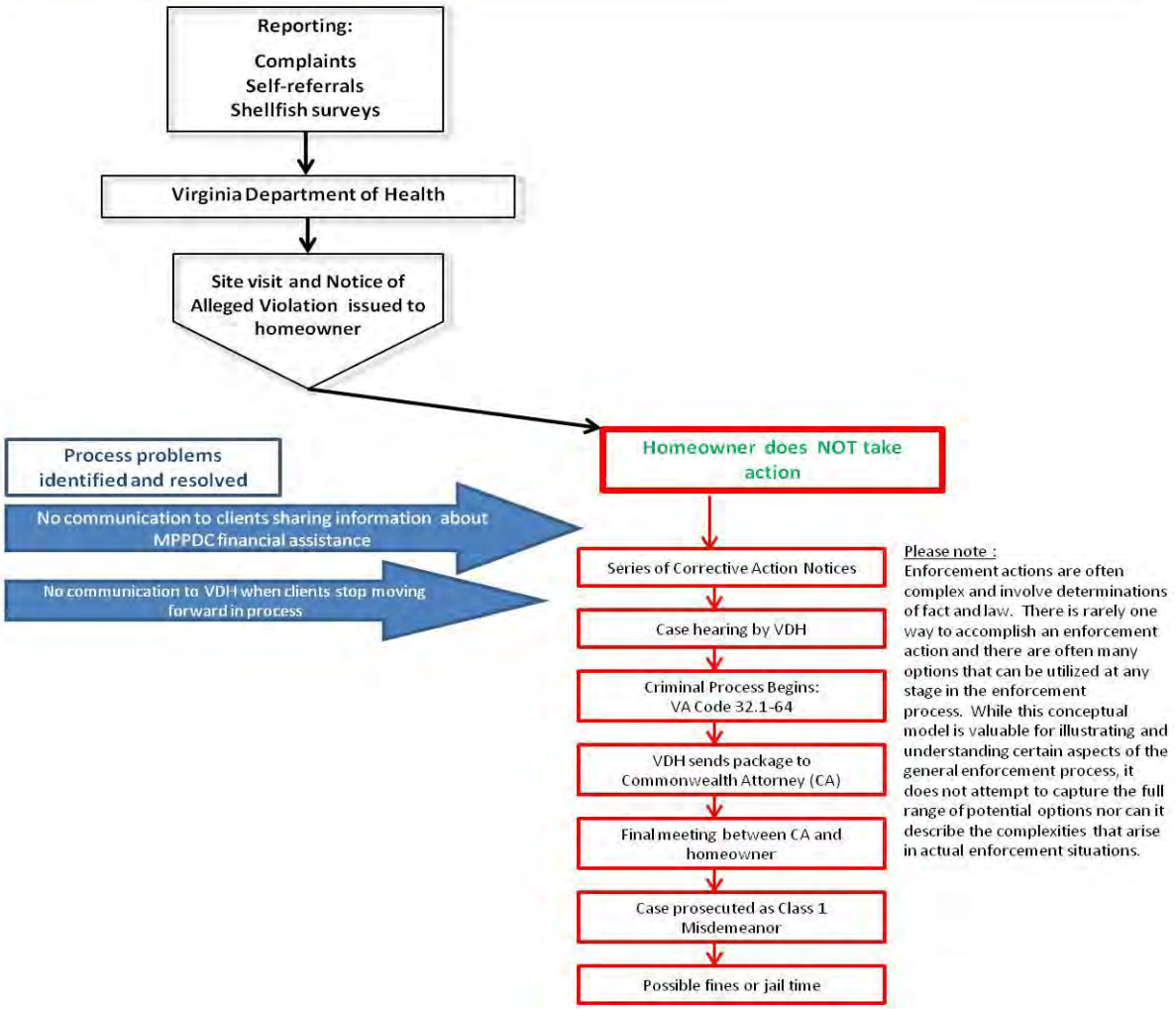
Stakeholder meetings were held with representatives of VDH (central and regional offices), MPPDC, King and Queen Commonwealth Attorney's Office, and Virginia Coastal Zone Management Program at the MPPDC on March 29, 2012. The meeting provided a forum for open discussion and clarification on a number of confusing points regarding how the current enforcement process works*. A summary of the meeting notes and participants is attached in Appendix C.*

During the stakeholder process, each involved party learned more about how the enforcement process worked. It was discovered that the current enforcement process had all of the components necessary to successfully resolve the problem, but communication between some of the critical entities needed improvement (Figure 1). The Commonwealth Attorney whose role is vital in the enforcement process, was not aware of some of the issues and was not being provided with adequate case documentation to successfully prosecute cases. It also became apparent that VDH staff were not always providing landowners who needed financial assistance with information about existing loan and grant programs available through the MPPDC at the appropriate time. These communication gaps in the process were allowing citizens to "fall through the cracks" and, in some instances, allow for failing systems to persist for years.

While VDH discovers most failing septic systems through the VDH - DSS Surveys, other issues are discovered through complaints or self-referrals. The current process includes a fairly lengthy administrative process beginning with an investigative site visit, a Notice of Alleged

Violation, and a series of recommendations with specific timeframes for compliance. VDH attempts to work with the landowners to resolve the problem and charts a course of action. However, upon many failed attempts, VDH will request a fact-finding conference and make a case decision with a final deadline for compliance. If this is also ignored and the administrative process is exhausted, the case could go to the local Commonwealth Attorney's office for prosecution. Such violations can be prosecuted as Class 1 Misdemeanors, but some Commonwealth Attorneys have not received any cases to date, or they are unwilling to follow through with prosecution.

Figure 1. Conceptual Example: Enforcement and Financial Assistance Partnership Model for Failing Septic Systems



Associated Code:
§ 32.1-164 F. Any owner who violates any provision of this section or any regulation of the Board of Health or the State Water Control Board relating to alternative discharging sewage systems or who fails to comply with any order of the Board of Health or any special final order of the State Water Control Board shall be subject to the penalties provided in §§ 32.1-27 and 62.1-44.32.

§ 32.1-27. Penalties, injunctions, civil penalties and charges for violations.
A. Any person willfully violating or refusing, failing or neglecting to comply with any regulation or order of the Board or Commissioner or any provision of this title shall be guilty of a Class 1 misdemeanor unless a different penalty is specified.

As a criminal offense has been difficult to prosecute, VDH hopes to have civil penalties in the near future. VDH has developed a schedule of civil penalties that is contained in a regulation that the Board of Health adopted October 23, 2009. They are still under executive review.

In addition to cases not being prosecuted as criminal offenses by the local Commonwealth Attorneys, landowners have also dropped out of the process of repairing or

replacing their failed systems without notifying VDH. At any time during the process a landowner may stop moving forward with the repairs to their system, while VDH believes they are on the path towards hiring a contractor to repair or replace the system. Another misconception that became apparent in the discussions about the current process is the belief that there was insufficient funding available to assist low income landowners with these repairs. However, the MPPDC has a longstanding septic repair loan and grant program available to assist landowners that is not always taken advantage of within the region.

Specific Issues identified with the process:

1. Throughout the VDH enforcement process, citizens may stop moving forward towards a solution without notification to VDH;

2. There is a disconnect between programs such as the MPPDC's grant and loan program which provides financial assistance and the landowners identified by VDH as having failed systems;

3. Some landowners could "fall through the cracks" and have a failing system for years without any action taken by VDH or the local Commonwealth Attorney; and

4. Some counties have developed local ordinances to address the problem and levy civil penalties but not all local jurisdictions seem to know that they have the authority for this. Gloucester County, for instance, has a civil penalty in place for septic violations that only applies to alternative systems as there is no enabling legislation to allow for conventional systems (Chapter 19-17-1)[1].

[1] ***Sec. 19-17.1 - Notice of violation and civil penalties.***
(a) If upon any inspection, the health director, the codes official, the utility director, or their designees shall find any violation of

(a) If upon any inspection, the health director, the codes official, the utility director, or their designees shall find any violation of this article, the health director shall direct, by written notice, that the violation in question be abated or remedied within thirty (30) days after receipt of notice of the violation. It shall be unlawful for any person to fail, neglect, or refuse to comply with such notice within the thirty (30) days.
(b) For any violation of this article involving alternative onsite sewage systems, in lieu of a criminal charge, the health director, the codes official, the utility director, or their designees may issue a civil summons, assessing a civil penalty of $100 for said violation.

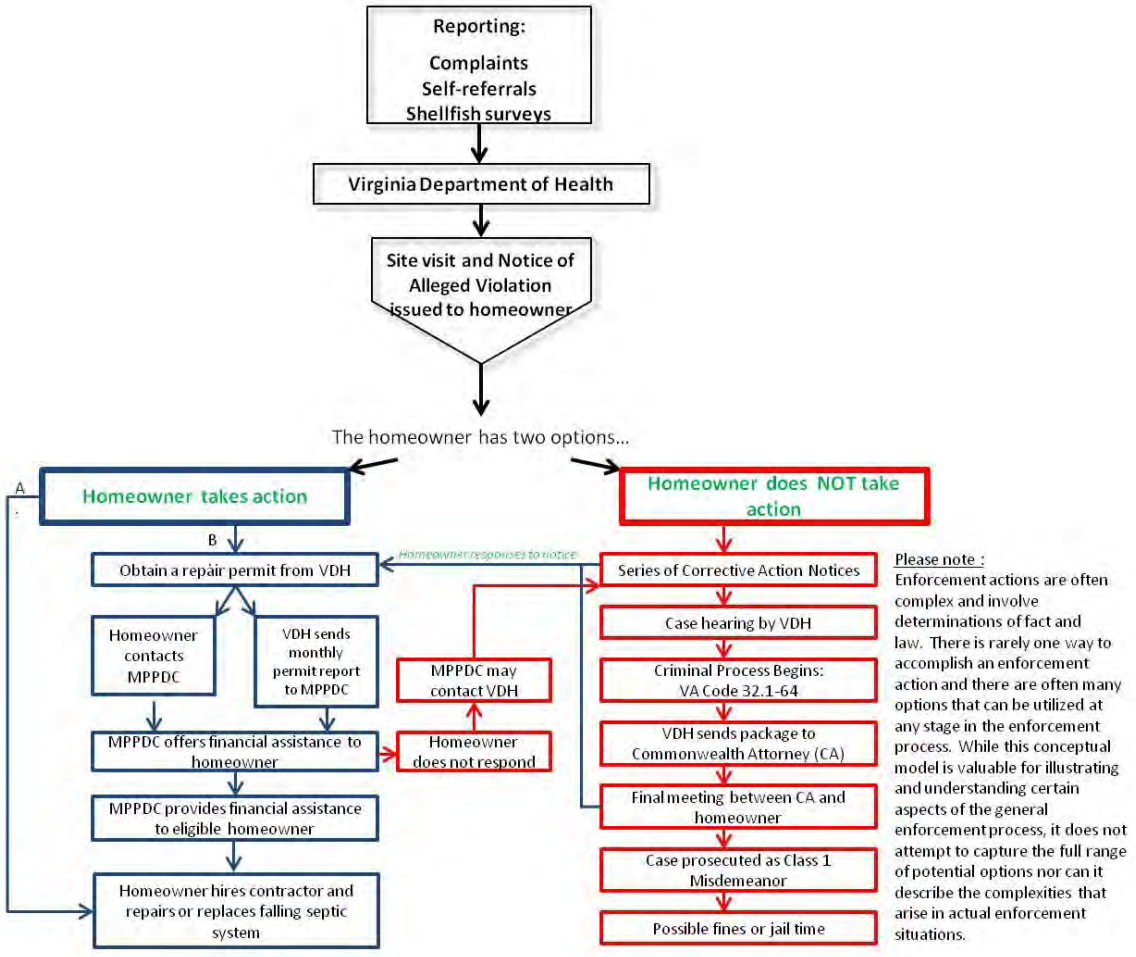
Each day during which the violation is found to have existed shall constitute a separate offense, with a maximum penalty arising from the same set of operative facts of three thousand dollars ($3,000.00). Specified violations arising from the same set of operative facts shall not be charged more frequently than once in any ten-day period.

Any person summoned or issued a ticket for a scheduled violation may make an appearance in person, in writing, or by mail to the Gloucester County Treasurer prior to the date fixed for trial in court. Any persons so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

The stakeholder process resulted in changes to the existing enforcement process (Figure 2). Most of the changes were implemented following stakeholder meetings and did not require the drafting of an MOU, as both the MPPDC and VDH saw the immediate need for the improvements. The changes have been memorialized in an enforcement conceptual model that will be shared with each of the groups including the Commonwealth Attorneys.

Figure 2. Conceptual Example: Enforcement and Financial Assistance Partnership Model for Failing Septic Systems

Background: This is a conceptual example of the enforcement and financial assistance partnership model for failing septic systems in the Middle Peninsula region. It should give policy makers and citizens a clear understanding of how the process may work, and the methods of amelioration.



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Changes made as a result of stakeholder process:

1. MPPDC has created a conceptual example of the enforcement and financial assistance partnership model for failing septic systems in the Middle Peninsula region. It should give policy makers and citizens a clear understanding of how the process may work, and the methods of amelioration.

2. MPPDC will share the conceptual example and the appropriate materials with all of the Commonwealth Attorney's in the region;

3. VDH has agreed to provide the MPPDC funding assistance package to landowners that receive the initial notice of alleged violation.

4. VDH has agreed to mail monthly reports to the MPPDC of permits issued for septic repair or replacement within the region.

5. MPPDC has agreed to mail notification of financial assistance packages to homeowners on the monthly permit list.

6. MPPDC has agreed to contact VDH when landowners have not followed through with repairs.

7. MPPDC will continue to follow the progress of schedule of civil penalties developed by VDH and awaiting the Governor's approval.

Product #2: Rural Local Government Assessment of Nutrient Loading Responsibilities

With the passing of HB 1065 in April 2012, the Erosion and Sediment Control Act, Stormwater Management Act, and the Chesapeake Bay Preservation Act regulatory programs were integrated into one consistent regulation. Therefore MPPDC developed and assessed the region's need for enforceable policy tools to address these mandates and applied for grant funds that would directly establish a Regional Stormwater Program as well as an approach to addressing regulations relating to the Chesapeake Bay TMDL Program.

In August 2012, MPPDC was informed of an award of a technical assistance grant through the National Fish and Wildlife Foundation (NFWF). The project will entail the development of a Regional Stormwater Program to position the six counties and three towns in Virginia's MPPDC to successfully address regulations relating to the Chesapeake Bay TMDLs and Virginia's new Stormwater Management Regulations. This will include the development of preliminary plans for two stormwater management / bio-retention demonstration projects.

Second, MPPDC has received notification of an award $99,857 from the Virginia Department of Conservation and Recreation (DCR) to provide assistance to Middle Peninsula localities with understanding options for responding to the new stormwater regulations. The combination of technical assistance and direct grant funds, will position Middle Peninsula localities with access to technical expertise to discuss and assemble the necessary strategies and tools to comply with the regulatory requirements either locally or regionally.

Product #3: Unintended consequences of Phase II Watershed Implementation Plan

Changes in VDH Sewage Handling and Disposal Regulations in 2000, have dramatically changed land development patterns within many Virginia localities. The regulations allowed new alternative onsite sewage system (AOSS) technologies to be installed on "marginal land," or land that does not perk, and would not normally support a traditional gravity fed septic system. Consequently these regulations reinforced the role of VDH to issue permits for AOSS, but did not address land use development decision making, which is a responsibility of local governments.

Then, in 2008, legislation was approved that (Va. Code § 32.1-163.6) requires VDH to accept designs from professional engineers for onsite sewage systems that reflect the degree of skill and care ordinarily exercised by licensed members of the engineering profession. Next in 2009, legislation amended Va. Code §32.1-163.6, requiring treatment works designs to meet or exceed the standards of systems permitted under the Board's regulations and to be appropriate for the particular soil characteristics of the site.

Also in 2009, the General Assembly directed VDH to adopt emergency regulations to specifically address three issues relative to AOSS: Performance; Horizontal Distances; and Operation and Maintenance. The Emergency Regulations for Alternative Onsite Sewage Systems (12VAC5-613-10 et seq., Emergency Regulations) were an interim effort to supplement the Sewage Handling and Disposal Regulations (12VAC5-610-20 et seq.) that were silent with respect to performance, and horizontal setbacks as well as the operation and maintenance for proposals under Va. Code §32.1-163.6. Therefore over time, with the passing of these regulations, the policy and management conundrum of AOSS has triggered questions as local

governments begin to comprehend the land use implications of these regulations within their jurisdiction.

As part of the project, interviews were held with regional and local real-estate assessment firms about how land valuation for reassessment may be handled as a result of VDH AOSS regulation changes. Through these discussions it was found that each firm will continue to assess land at 100% fair market value, as per Virginia Code §58.1-3201[2], which states that all general reassessments or annual assessments in localities shall be made at 100% fair market value.

According to assessors, a property is assessed based on a variety of property attributes and comparison of the sales of similar properties to obtain an assessed value of the property. Factors that contribute to the assessed value of the property include the presence of a buildable site, the percentage of wetland within the parcel, and if there are Resource Protection Area (RPA) restrictions. In most cases this information is available to assessors; however when it is not, they make assumptions about the property to fill the information gaps. It is ultimately the responsibility of the property owner to provide the assessor with accurate data/information about their property if they feel the assessed value is inaccurate. For instance through soil science reports from VDH, an economic feasibility assessment of building on a parcel, or a wetland delineation of the property, the assessor may adjust the assessed value accordingly. Providing accurate data/information places additional costs on the shoulders of the land owner to prove or disprove a position.

[2] **§ 58.1-3201. What real estate to be taxed; amount of assessment; public service corporation property.**

All real estate, except that exempted by law, shall be subject to such annual taxation as may be described by law. All general reassessments or annual assessments in those localities which have annual assessments of real estate, except as otherwise provided in § 58.1-2604, shall be made at 100 percent fair market value and, except as provided in § 58.1-2608, the State Corporation Commission and the Department of Taxation shall certify public service corporation property to such county or city, with the exception of the nonoperating (no carrier) property of railroads, on the basis of the assessment ratio as most recently determined and published by the Department of Taxation. The Department of Taxation shall, ten days after determining the assessment ratio, notify the locality of that determination and the basis on which the determination was made. Nonoperating (noncarrier) property of railroads shall be valued for assessment by the city or county in which it is located uniformly with similarly situated real estate in the same jurisdiction upon the best and most reliable information that can be procured. The Tax Commissioner shall determine which property is part of the operating unit of the railroads and which is nonoperating (noncarrier) property for purposes of the report described in § 58.1-2653. Such determination shall be made in accordance with the meaning of such terms in the Interstate Commerce Commission's Uniform System of Accounts. The inclusion, or failure to include, property in such report described in § 58.1-2653 may be reviewed and predetermined by the Tax Commissioner at the request of any railroad, county, city, town or magisterial district.

Case Example:
5.53 acre parcel in Gloucester County

1 **Before AOSS regulations changes in 2000:**

Property was assessed at $4,400 ($795.66/acre) (aka marginal land)

2 **After AOSS regulation changes in 2000 (Freedom of Engineering Bill):**

Property was assessed at $47,500 ($8,589.51/acre) due to having "buildable sites because of engineered systems"

A Property owner had to commission for a soil scientist to verify what system could/could not be placed on parcel. ($500 soil study). Results used to support the land value for real-estate taxing purposes.

3 **Emergency Regulation were passed –**

B Example parcel has soil study which states parcel can support secondary treatment, reassessment values reflect such.

4 **Gloucester County Supervisors change ordinance June 5, 2012**

C Soil Scientist now says example parcel will no longer qualify for secondary treatment system.

D Property owner has to commission another soil study to determine that the parcel is not buildable due to soil, to prove that the land value should not reflect "marginal land, with no building potential" (cost to home owner $500)

Reassessment of land value was reduced to $1,1211.57 per acre

Since AOSS regulation changes in 2000, Gloucester County residents have noticed changes in their assessments. However assessment values have not been consistent. While some assessed valued have fallen, others have increased. The Case Example (*to the left*) is an example of one parcel in Gloucester County that shows how the changes of VDH regulation impacted assessment values. Again, this places the cost on the citizen to disprove the position. In addition, this process also impacts the Gloucester County's tax revenue. As the assessed value of the property changes, this directly impacts the amount of revenue generated through taxes. To use the case example, Table 1 (*below*) shows the fluctuations of the assessed value and the direct impact to tax revenue generated:

Table 1: Assessed property values and impacts to the tax revenue generated.

Year	Acres	Assessed Value	Levy	Tax Revenue Generated
2009	5.53	$4,400	$0.65 per $100	$28.60
2010	5.53	$47,500	$0.65 per 100	$308.75
2012	5.53	$6,700	$0.65 per 100	$43.55

With such a difference of tax revenue generation from year to year, this may have unintended fiscal consequences to a given locality.

Currently there is no specific guidance from the Virginia Association of Assessing Officers (VAAO), a professional organization of assessors and appraisers from state and local governments throughout the Commonwealth seeking to improve assessment standards, disseminate information on assessment practices and provide continuing education to its members. Thus, assessors will continue to assess properties at 100% fair market value, based on property attributes, available data, and the sales of similar properties within the area. There is no question that additional revenue will be realized by a locality if the local assessors begin to assume that the majority of parcels are now buildable because of the changes in septic regulations.

Septic permits for "non-tidal wetlands"

The Code of Virginia, Title 10.1, Chapter 11.1, Article 1 states, "The Department of Environmental Quality consolidated the functions and programs that existed in three regulatory agencies: the Department of Air Pollution Control, the State Water Control Board, and the Department of Waste Management and an advisory agency: the Council on the Environment. The three citizen regulatory boards responsible for adopting Virginia's environmental regulations were retained and work closely with the department. Their functions and programs are discussed in detail in this title under State Air Pollution Control Board, Virginia Waste Management Board and State Water Control Board. The department is authorized to implement all regulations adopted by the three boards." Subsequently, as the State Water Control Board is responsible for the quality of state waters (§ 62.1-44.2[3]), DEQ has authorized jurisdiction over state waters. More specially, according to VA Code § 62.1-44.15, one power/duty of the Board is: *To issue, revoke or amend certificates under prescribed conditions*

[3] ***§ 62.1-44.2. Short title; purpose.***
The short title of this chapter is the State Water Control Law. It is the policy of the Commonwealth of Virginia and the purpose of this law to: (1) protect existing high quality state waters and restore all other state waters to such condition of quality that any such waters will permit all reasonable public uses and will support the propagation and growth of all aquatic life, including game fish, which might reasonably be expected to inhabit them; (2) safeguard the clean waters of the Commonwealth from pollution; (3) prevent any increase in pollution; (4) reduce existing pollution; (5) promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment and public health; and (6) promote water resource conservation, management and distribution, and encourage water consumption reduction in order to provide for the health, safety, and welfare of the present and future citizens of the Commonwealth.

for: (a) the discharge of sewage, industrial wastes and other wastes into or adjacent to state waters; (b) the alteration otherwise of the physical, chemical or biological properties of state waters; (c) excavation in a wetland; or (d) on and after October 1, 2001, the conduct of the following activities in a wetland: (i) new activities to cause draining that significantly alters or degrades existing wetland acreage or functions, (ii) filling or dumping, (iii) permanent flooding or impounding, or (iv) new activities that cause significant alteration or degradation of existing wetland acreage or functions.

Within the VDH Emergency Regulations for Alternative Onsite Sewage Systems (12VAC 5-613-10), there has been a re-clarification/re-statement of this already existing Federal and State law and regulation, in which DEQ has jurisdiction of wetlands (ie. tidal, non-tidal, and constructed). As per 12VAC 5-613-10, the definition for wetlands, and the state's jurisdiction over them, is re-clarified:

> *"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.*

Within the same section, surface waters are defined to include wetlands:

> *"Surface waters" means: (i) all waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide; (ii) all interstate waters, including interstate wetlands; (iii) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds and the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (a) that are or could be used by interstate or foreign travelers for recreational or other purposes; (b) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (c) that are used or could be used for industrial purposes by industries in interstate commerce; (iv) all impoundments of waters otherwise defined as surface waters under this definition; (v) tributaries of waters identified in clauses (i) through (iv) of this definition; (vi) the territorial sea; and (vii) wetlands adjacent to waters (other than water that are themselves wetlands) identified in clauses (i) through (vi) of this definition.*

Thus, VDH cannot legally issue permits for onsite systems proposed in soil that is considered wetland (ie. tidal, non-tidal as well as constructed wetlands). However, the current reality of the situation is that VDH has issued permits in the past within areas designated as tidal and non-tidal wetland. **To date the agency has not revoked any of these permits, rather as the emergency regulations clarified the jurisdiction of wetlands, these permits will remain valid until they expire and will not be revalidated upon expiration. Landowners that want to**

revalidate permits will be direct to DEQ to obtain the necessary permits. This change in the permitting process will most likely lengthen the permitting process and increase the cost of permits as the standards for issuing permits in wetlands are more stringent.

In the Commonwealth of Virginia, DEQ administers the Virginia Pollutant Discharge Elimination System (VPDES) Program through the State Water Control Board. This program regulates water resources and the discharge of pollutants into state waters with individual and general permits. Permit requirements, special conditions, effluent limitations and monitoring requirements are determined on a site-by-site basis in order to meet applicable water quality standards.

General permits are permits written for a general class of dischargers. The State Water Control Board has adopted a variety of VPDES general permits, as required by law. The VPDES General/Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons per Day (9 VAC 25-110 (VAG40)) (Appendix D) - also known as the "single family home" general permit –is specific to onsite system discharge systems and is the permit of interest for this project.

Permit Process

Constituents wanting to construct an alternative onsite sewage system and discharging system on their property may contact their Local Health Department or they may work with a private engineer/contractor to fill out an onsite permit application. As part of the application a site location and a system design is needed. With a completed application, VDH will review the proposed site and decide if the proposed system will *preclude the safe and proper operation of a discharging system, or that the installation and operation of the system would create an actual or potential health hazard or nuisance, or the proposed design would adversely impact*

the environment (**12 VAC 5-640-270**)[4]. If the permit application gets approved the constituent may then continue with their project. On the contrary if a permit application gets denied, specifically if VDH determines that the site is unsuitable for a disposal system or if the proposed area has a wetland, then a constituent my attempt to obtain a VPDES General/Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day (9 VAC 25-110 (VAG40)) (also known as the "single family home" general permit) through DEQ.

To start this process, DEQ will ask the constituent to submit a Virginia DEQ Registration Statement (Appendix E). As part of the registration statement the applicant must include, *A copy of the notification from the Virginia Department of Health (VDH) that an onsite sewage disposal system permit has been applied for and that the VDH has determined that there is no onsite system available to serve that parcel of land*. DEQ will review the completed application upon submission. Typically DEQ takes 1 to 3 months to review the application, but depending on application this time period may be extended. For instance, if the applicant is requesting a new discharge or is requesting to expand a discharging site, DEQ will request comments from the VDH Division of Shellfish Sanitation (VDH-DSS) about the proposed discharge site. VDH-DSS will determine if this new/expanding discharge will cause a new or additional closure to shellfish waters. In addition DEQ will request comments from the Virginia Marine Resource Commission (MRC) to identify resources at the proposed site that may be impacted by the new/expanding discharge site. A discharge project will continue or not, depending on the comments provided by VDH-DSS and MRC. Typically, when provided negative comments from VDH-DSS or MRC (i.e. the project **will** impact shellfish beds/marine resources or will cause additional shellfish water closures), DEQ will deny the discharging system project as the proposed site will **not** qualify for the VPDES permit; however, if provided positive comments

[4] ***12 VAC 5-640-270. Denial of a construction or operation permit.***
A. Construction permit.
If it is determined that the proposed site does not comply with this chapter or that the design of the system would preclude the safe and proper operation of a discharging system, or that the installation and operation of the system would create an actual or potential health hazard or nuisance, or the proposed design would adversely impact the environment, the permit shall be denied and the owner shall be notified in writing, by certified mail, of the basis for the denial. The notification shall also state that the owner has the right to appeal the denial.
B. Operation permit.
In addition to the grounds set forth in 12 VAC 5-640-270 A, the operation permit shall be denied if the discharging system is not constructed in accordance with the construction permit or the owner has failed to provide the completion statement required by 12 VAC 5-640-300, or a copy of a valid maintenance contract required by 12 VAC 5-640-500 or a valid monitoring contract as required in 12 VAC 5-640-490 F. The owner shall be notified in writing, by certified mail, of the basis for the denial. The notification shall also state that the owner has the right to appeal the denial.

from VDH-DSS and MRC (i.e. the project **will not** impact shellfish beds/marine resources or cause additional shellfish water closures) – DEQ will inform the constituent to return to their Local Health District for a joint permit in which VDH, jointly with DEQ, approves the discharge system. According to VDH, within the Middle Peninsula as well as the Northern Neck, VDPES single-family home general permits are rare due to the regions coastal geography and the close proximity to shellfish beds. Currently within the Middle Peninsula there are only four VPDES General Permits issued for Single Family Homes (Essex County (1), Gloucester County (2), and King William (1)). However, there may be numerous VDH permits in the region that will not be revalidated upon expiration and thus will fall under the DEQ permitting process. Yet the number of systems this applies to is unknown.

Cost of Permitting

When applying for an onsite sewage system (i.e. alternative onsite systems) permit application through VDH, constituents are charged based on the entity that worked to develop/design the system. If a constituent chooses to work with a private engineer/contractor to develop an application then the constituent will be charged a $225 application fee. On the contrary if the constituent chooses to work directly with their local health district to design a system and complete an application then the constituent will be charged a $425 application fee. This fee includes a site and soil evaluation by VDH staff. The application fees above apply to systems that discharge less than 1,000 gallons per day. Systems that allow for discharges greater than 1,000 have a higher application fee of $1400.

According to DEQ Water Division Permit Application Fee Form (Appendix F), Registration Statements for VPDES General/Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons per day costs $0.

Although permitting fees vary, through various discussions, it was found that the price difference between an OSDS/AOSS requiring a VDH permit and an OSDS/AOSS that requires a VPDES permit are minimal. The only difference may be seen in VPDES permitted systems that may require more monitoring of discharges as well as maintenance/replacement of tertiary treatment disinfectants (ie. Ultra-violet bulbs, ozone equipment, chlorination tablets, filtering sand and peat medium).

Waivered Properties

In 2004, the Virginia General Assembly passed House Bill 930 (Acts of Assembly, Chapter 916, 2004) which amends § 32.1-164.1:1 of the Code of Virginia by adding the following subsection:

> *B. Further, whenever any onsite sewage system is failing and the Board's regulations for repairing such failing system impose (i) a requirement for treatment beyond the level of treatment provided by the existing onsite sewage system when operating properly or (ii) a new requirement for pressure dosing, the owner may request a waiver from such requirements. The Commissioner shall grant any request for such waiver, unless he finds that the failing system was installed illegally without a permit. Any such waivers shall be recorded in the land records of the clerk of the circuit court in the jurisdiction in which the property on which the relevant onsite sewage system is located. Except between a husband and a wife, waivers granted hereunder shall not be transferable and shall be null and void upon transfer or sale of the property on which the onsite sewage system is located. Additional treatment or pressure dosing requirements shall be imposed in such instances when the property is transferred or sold.*
>
> *The owner of the relevant property shall disclose, in writing, to any and all potential purchasers or mortgage holders that any operating permit for the onsite sewage system that has been granted a waiver authorized by this subsection shall be null and void at the time of transfer or sale of the property and that the Board's regulatory requirements for additional treatment or pressure dosing shall be required before an operating permit may be reinstated.*

To explain, if a homeowner has a failing septic system they are eligible to apply for a waiver. This waiver, from VDH, allows the homeowner to repair the system, so that it performs at the system's best. However the system's best may still be leaking.

According to VDH, when a property with a waivered repair system changes hands, except for certain particular cases under the Code, the Operation Permit for the system becomes null and void. The waiver would show up in the title search performed as part of property transfer. Since VDH is not notified when a property with a waiver is transferred, it is incumbent upon the new owner to pursue a new Operation Permit for a system that meets the treatment or dispersal standards of VDH at the time. The new owner would apply to VDH for a permit for this change and VDH would act upon the application based upon the information provided. If VDH is in possession of evidence in the form of a certified wetland delineation performed by a qualified individual that the specific soil absorption area (e.g. drainfield) portion of the system is a jurisdictional wetland subject to permitting by DEQ, then VDH would not have

legal authority to provide the requested permit, and would direct the owner to DEQ for permitting.

With the assistance of VDH other specific questions about the transfer of waivered properties were addressed:

Question: If an owner with a failing onsite sewage system requests a waiver under GMP 128, and VDH has a wetlands delineation that indicates the system is in a wetlands, will VDH issue the waiver?
Answer: No, VDH cannot issue the waiver because at the point that VDH knows the site is a wetlands, VDH has no jurisdiction to issue an onsite sewage disposal permit or grant the waiver.
Question: If an owner with an existing waiver approaches VDH with a construction permit application to upgrade their system to make it regulatory compliant, but VDH has evidence (wetlands delineation) that confirms the site is in wetlands, will VDH issue the construction permit?
Answer: No, VDH cannot issue the construction permit as VDH does not have the authority to issue an onsite permit for a system located in wetlands.
Question: Are the waivers already signed and recorded legally binding, particularly if wetlands are suspected?
Answer: At the time the waivers were signed and recorded, VDH did not know that the systems were in wetlands. When a property changes hands and the new owner attempts to convert the system to a regulatory compliant system, VDH will be unable to issue an onsite permit for a site in a confirmed wetland and will direct the owner to DEQ.
Question: A site with a waiver that is known to be in wetlands (delineation available). Will VDH take action to revoke the waiver and require the owner to obtain a discharge permit?
Answer: When VDH is made aware of the situation and has evidence as to the wetland status of the site, VDH will notify DEQ of the apparent illegal discharge to surface water with a copy to the owner**.**
Question: There is a VDH encumbrance on private property, under signature of the VDH Director that requires secondary treatment before the property can transfer to a new owner. How is the current homeowner of record supposed to clear the encumbrance from the deed if the property is now in wetlands? Will VDH record a notice of release to the waiver requirements?
Answer: The waiver states that it is void upon sale of property. It is not an encumbrance so will not affect the sale of a property from a clear title perspective. Upon the voiding of the waiver, the operation permit for the existing septic system is also void. The new owner must bring the system back into compliance.
Question: An owner with a waiver learns that he is in wetlands. He wants to install a regulatory compliant system and receives a proper permit from DEQ for a discharging system. At that point, his deed still has the waiver recorded because the property has not changed hands. Is there a legal need to eliminate the recorded information on the waiver as it is now no longer applicable? If so, how would you do that?
Answer: The waiver would still be void upon sale of the property and the permit from DEQ would be accepted as complying with the waiver. If the owner, however, wanted the waiver removed prior to initiating sale of the property, VDH could issue a letter that would void the waiver, but would need guidance from the Clerk to determine the format of that letter.

Sanitation Districts, Sanitary Districts, Sewer Authorities and Service Districts

As an option to manage the temporal deployment of AOSS/OSDS, there are a variety of districts they may be developed to meet the land use goals of a jurisdiction. Table 2 provides descriptions of sanitary districts (Appendix G), sanitation districts, service districts (Appendix H) as well as the creation of an authority through the Virginia Water and waste Authorities Act (Appendix I). Choosing to create one district, over another will depend on the needs and desires of the locality. Please note that sewer districts were not included, since research found sewer districts are not included in VA Code.

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§ 15.2-2400 - §15.2-2403)**
General Purpose	To develop and deliver in specified areas a large variety of local services that are not available county-wide	To protect tidal waters, public health, and natural oyster beds, rocks, and shoals from pollution through the construction and operation of sewage disposal facilities	To create a water authority, a sewer authority, a sewerage disposal authority, a stormwater control authority to collect and disposal authority, or any combination of	To provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.
Eligible Jurisdiction	Counties (town may be included if agreed to by county and town). (§21-113)	Counties, cities, and towns, singly or jointly, but may consist only of integral body of territory within which are situated waters affected by the ebb and flow of the tide and not included in any other sanitation district. (§21-145)	Counties and towns (§15.2-5102)	Counties and towns (§ 15.2-2400)
Legal Classification	Special taxing district (§21-119); limited purpose corporation (Marsh v. Gainesville-Haymarket San. Dist ., 214 Va. 83)	Political subdivision. (§21-155)	Public body politic and corporate and a political subdivision of the Commonwealth. (§15.2-5102)	
Service Area	Restricted to one county; service area defined by court order establishing district, but may contract to extend services into territory outside district. (§21-113, §21-118.4)	May include more than one county, city, or town, but each part of district boundary must either (i) coincide with jurisdictional boundary, (ii) bisect a county, city, or town, (iii) be located within one mile of a county, city, or town, or (iv) connect two points lying on a county, city, or town boundary. May contract to provide services to a county, city, or town outside district. (§21-145 and §21-216)	Any locality by ordinance, or any two or more localities, may be created by concurrent ordinances or resolution or by agreement. (§15.2-5102)	Any locality by ordinance, or any two or more localities, may be created by concurrent ordinances, can create a service district. (§15.2-2400)

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§15.2-2400 - §15.2-2403)**
Establishment	Circuit court--upon petition of 50 or more qualified voters of proposed district (50% of qualified voters if district contains less than 100 voters) to create district. If court feels that property in proposed district would benefit, may issue order creating district. (§§21-113 - 21-114)	Circuit court--after hearing-on citizen petition and referendum. Petition must be signed by at least 200 voters (at least 50 from each county, city, and town included in proposed district). State Health Commissioner must approve creation of district. Also, each county, city, and town included, in whole or in part, in the district must approve creation of district. At hearing, court considers whether all property will be benefited, public interest will be served, and public health protected. If court is satisfied, then it must order referendum, and if voters approve, enter order establishing district. (§§21-146 – 21-150)	The ordinance, resolution or agreement creating the authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at the referendum.	Any locality seeking to create a service district shall have a public hearing prior to the creation of the service district. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the locality, and the hearing shall be held no sooner than ten days after the date the second notice appears in the newspaper. (§ 15.2-2400)
Referendum Provisions	None	Must be held if court upholds establishment of district after hearing on petition. If the overall vote on establishing the district is favorable, but a majority of the voters of any county, city, or town vote against establishing the district, then any territory of that jurisdiction shall be excluded from the district. (§§21-149 and 21-151)	If substantial opposition is heard, the governing body may at its discretion petition the circuit court to order a referendum on the question of adopting or approving the ordnance, agreement or resolution. If ten percent of the qualified voters in a locality file a petition with the governing body at the hearing calling for a referendum, such governing body shall petition the circuit court to order a referendum in that locality. (§ 15.2-5105)	None

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§15.2-2400 - §15.2-2403)**
Governing Body-Selection	Board of Supervisors of county serves as governing body of district. (§21-118)	Appointed by the Governor. (§21-157)	Governing body	Governing body or bodies (§ 15.2-2403)
Governing Body-Composition	Same as for Board of Supervisors. (§21-118)	Five members, residents of the district. Members serve for four-year terms, but may be removed by Governor at his pleasure. (§21-157 and §21-162)	Five members of the Board of the authority chosen by Board of Supervisors	Governing body or bodies (§ 15.2-2403)

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§15.2-2400 - §15.2-2403)**
General Powers	*To construct, maintain, and operate, either itself or by contracting, parking lots; water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, street, and firefighting systems; and sidewalks, curbs, gutters, and recreational facilities. *To construct school buildings. *To buy, lease, and sell real estate in connection with such activities. *To employ special policemen. *To require property owners to connect to or use such systems. *To set and collect user fees and charges for use of district services. *To hire personnel. *To borrow money in anticipation of revenue. (§§21-118 and 21-118.4)	*To acquire and dispose of, in the name of the commission but for the counties, cities, and towns embraced within the district, real and personal property. *To construct, maintain, and operate sewage collection, treatment, and disposal systems. *To charge and collect fees, rents, and other charges for the use of its sewage disposal system. *To hire personnel. *To sue and be sued. (§§21-168, 21-170, 21-177, and 21-180)	*Exist for a term of 50 years *Adopt, amend, or repeal bylaws, rules and regulations *Adopt an official seal *Maintain an office *Sue and be sued *Acquire, purchase lease, construct, reconstruct, improve, extend, operate and maintain any system or an y combination of systems within, outside or partly within and partly outside one or more of the localities *Issue revenue bonds *Combine any systems as a single system for the purpose of operation and financing *Determine and issue notes, bonds, or other obligations. *Fix charge and collect rates, fees and charges *Enter into contracts *Enter upon, use occupy and dig up any street , road, highway or private or public lands in connection *Install, own and lease pipes or conduit *Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights	*To construct, maintain, and operate facilities and equipment necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, included but not limited to water supply, dams, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; dredging to maintain existing uses; control of infestations of insects and pests; public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; maintain streets and roads; and other services, events, or activities that will enhance the public use and enjoyment *Maintain transportation and transportation services. *To acquire facilities and equipment for services *To contract with any entity to provide services *To require owners or tenants to connect to service *To levy or collect an annual tax *To allocate funds

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§15.2-2400 - §15.2-2403)**
Taxing Authority	May levy tax on property in district.	No taxing authority.	No taxing authority	May levy tax on property in district.
Condemnation Authority	Provided general condemnation power; for construction of water and sewer lines and treatment plants. May exercise same condemnation powers utilized by Commonwealth Transportation Commissioner (§21-118)	Provided general power of eminent domain. (§21-166)	Rights of eminent domain apply (§15.2-5114)	
Special Powers and Restrictions	None	No bond referendum may be held within first six months of the creation of the district. (§21-209)		

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§15.2-2400 - §15.2-2403)**
Changes in Jurisdictional Membership/ Service Area	Upon petition of county governing board and of 25% of voters residing in area to be added, judge may, after holding a hearing, enlarge district. (§21-116)	A jurisdiction may withdraw within one year of creation of the district, but must give notice of its intent to do so within six months after creation of the district. Withdrawal of jurisdiction is allowed if the State Health Commissioner determines if the withdrawing locality has taken sufficient steps to construct its own sewage disposal system. District commission must also be satisfied that withdrawing locality has taken sufficient steps to prevent pollution. If the district commission does not agree, the withdrawing locality may petition court to determine if it may withdraw from district. If a city withdraws, it must treat sewage of adjacent county or town, if requested to do so by the commission or the governing body of the county or town. (§§21-203 - 21-211)	By ordinance, resolution or agreement	By ordinance, or any two or more localities may create a service district by concurrent ordinances
Prescribed Duration	None Specified	None specified	A term of fifty years as a corporation	None specified

District	**Sanitary District (§21-112.22 - §21.140.3)**	**Sanitation District (§21-141 - §21-223)**	**Virginia Water and Waste Authorities Act (§15.2-5102 - §15.2-5127)**	**Service District (§15.2-2400 - §15.2-2403)**
Dissolution Provisions	May be dissolved by judge, upon petition of county governing body and at least 50 residents of district, followed by hearing. The following conditions must be satisfied before dissolution: 1. All bonds issued must have been redeemed and purposes for which district created have been completed; or 2. All obligations and functions of district have been taken over by county as a whole; or 3. Purposes for which district created are impractical or impossible and no obligations incurred. (§21-117.1)	No provisions for dissolution.	By resolution expresses its consent to withdrawal	No provisions for dissolution.

Local Options to Manage AOSS and/or Requiring Mandatory Sewer Hookup

As a Dillon Rule state, local governments within Virginia may only exercise those powers expressly delegated by the legislature or those that may be fairly or necessarily implied from an express grant of power (City of Virginia Beach v. Hay, 258 VA at 222) and when exercising their authority, local governments must choose a method that is consistent with the statutes. Thus throughout the Virginia Code there are four sections of enabling authority that provides localities the ability to require mandatory hookup to public sewer.

First, if a county chooses, it may require mandatory hookup to public sewer through the creation or expansion of a sanitary district. Within VA Code §21-118.4 (Appendix G) it explains a variety of powers and duties of a County's Board of Supervisors (BOS) upon the creation of a sanitary district. In particular, the BOS is:

> *To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a $50 fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until 10 days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal; powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed*

Second, the Virginia Water and Waste Authorities Act (§ 15.2-5102) enables local government to create a sewer authority (Appendix I). With a variety of duties and power, local government shall require *owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The authority shall be a public body politic and corporate and a political subdivision of the Commonwealth. The ordinance, resolution or agreement creating the authority shall not be adopted or approved until a public hearing*

has been held on the question of its adoption or approval, and after approval at a referendum if one has been ordered pursuant to this chapter.

Third, after adoption of an ordinance for creating a service district (VA Code §15.3-2400), localities can *require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections.*

Fourth, according to VA Code §15.2-2110 (Appendix J), only specific counties have the authority to require mandatory public sewer and water hookups, and there are three varying stipulations (in summary):

> 1. Amelia, Botetourt, Campbell, Cumberland, Franklin, Halifax and Nelson Counties may require connection to public water and sewage systems. However for properties that have domestic supply or a source of potable water, and a sewage disposal system that adequately prevents the contraction or spread of infectious, contagious and dangerous disease, shall not be required to hookup. Yet these properties owner may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge.
>
> 2. Bland, Goochland, Rockingham, and Wythe Counties may require connection to public water and sewage systems, at the time of installation of such public system, or at a future time, if the property does not have a then-existing, correctable, or replaceable domestic supply or source of potable water and a then-existing, correctable, or replaceable sewage disposal system adequate to prevent the contraction or spread of infectious, contagious and dangerous diseases. These counties may not charge a fee for connection to its water and sewer systems until such time as connection is required.
>
> 3. Buckingham County may require connection to its water and sewer systems, at the time of installation of such public system, or at a future time, and does not have a then-existing or correctable domestic supply or source of potable water and a then-existing or correctable system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious and dangerous diseases. This county may not charge a fee for connection to its water and sewer systems until such time as connection is required.

In 2011, Gloucester County Administration requested Delegate Keith M Hodges to add Gloucester County to the enabling authority to require mandatory hookup. Thus, during the 2012 General Assembly (GA) session, Delegate Hodges introduced HB 760 to add Gloucester County and not to charge a fee to non-users. However, with some backlash from the Gloucester County constituents and with no resolution from Gloucester County BOS, the House Committee docketed the bill. Although a resolution to be added to this enabling authority is not required through the legislation, in this particular case Delegate Hodges thought it was important to show county support. As the bill was docketed January 2012, Gloucester County Board of

Supervisors passed a Resolution Requesting the General Assembly to Consider Adding Gloucester County to the Counties Listed in Virginia Code Section 15.2-2110(A) in March 2012. With the passing of a resolution this demonstrates support for this effort within the County. Upon the passing of this resolution, Gloucester forwarded this information to Delegate Hodges in order that Gloucester County may be added to the enabling authority during the 2013 GA session. While Gloucester County had four options legislative options to require mandatory hookup, the County believed that being added to the enabling authority to require mandatory hookup would be the most streamlines approach to achieving this.

While HRSD has the authority to require mandatory public sewer hookup within their enabling authority (Chapter 66 of the Acts of 1960 as amended) they do not enforce this authority and choose to defer this to the county.

Finally, while researching MPPDC staff found a recent opinion from Attorney General Cuccinelli that addressed the issue presented: *whether, pursuant to §15.2-2157, a locality may adopt requirements and standards other than maintenance requirements for alternative onsite sewage systems that are in addition to or more stringent than those set forth by the Board of Health in the Sewage Handling and Disposal Regulations and the Emergency Regulations for Alternative Onsite Sewage Systems.* According to Cuccinelli's opinion, *a Virginia locality can adopt standards and requirements for alternative onsite sewage systems that are in addition to or more stringent than those promulgated in regulations by the Board of Health, provided such standards or regulations do not relate to maintenance issues.* For the AG's opinion in its entirety, please see Appendix K.

Upon review of this AG's opinion, County planners were asked to provide feedback regarding the opinion and how this may impact management of alternative systems within their jurisdiction. According to one county planner in the Middle Peninsula, this will have little impact on what localities can do to "manage" alternative systems beyond what regulations have authorized. While soils can no longer limit development in areas with poor soils based on the ability to provide septic systems, counties can still limit the number of systems through zoning. For instance, Gloucester County currently has an ordinance (Subdivision Ordinance – Chapter 15 - (15-14-15-15.1)) that require lots less than two acres in area to connect to public water and sewer. While this project initiated discussions about this AG's opinion, more thorough dialogue will need to ensue as to the true AOSS management implications of this opinion.

Examples of Counties with Mandatory Hookups

Currently there are several counties within the Commonwealth that require mandatory hookup, but each county handles their program differently.

In May 2011, Bedford County Public Service Authority approved a mandatory connection policy to public services (ie. water and sewer). Within their operating policy manual for mandatory hookups (Appendix L), Bedford County Public Service Authority reviews its rights to require mandatory hookup. The policy explains that, "The owner, tenant, or occupant of each lot or parcel of land where any new residential, commercial or industrial construction abuts upon or adjoins a public or private street or other public way or easement containing a waterline and/or sewer line shall be compelled to connect to said utility and pay all appropriate fee." Private facilities that, "have a proper and adequate method for private sewage disposal will not be required to connect to the Authority's sewer system, will the property owner, tenant or occupant be required to pay any connection or user fee. Should those private sewer facilities fail, the property must then be connected to the Authority's sewer system and an alternative method for disposal cannot be developed or utilized." The policy also establishes an exemption for properties that are greater than five hundred free from the public sewer.

While Bedford County utilized the powers of their Public Service Authority to require mandatory connection, Cumberland County is included in the VA Code enabling authority (§15.2-5137) that allows a county to require connection to public water and sewage systems. According to the code Cumberland County may not require hookup to public water or sewer if the properties has have domestic supply or a source of potable water, and a sewage disposal system that adequately prevents the contraction or spread of infectious, contagious and dangerous disease. However the County does have the right to require these property owners to pay a connection fee, a front footage fee, and a monthly nonuser service charge. To assist constituents in understanding, Cumberland County Public Service Authority created an outreach pamphlet (Appendix M) to takes a property owner step-by-step through the process to determine whether or not they must connect to the sewer system.

Finally James City County, VA passed an ordinance to establish a connection policy for a sanitary district (Appendix N). The ordinance requires, "The owners or tenants of all structures used for human occupancy employment, recreation, or other purposes, constructed

subsequent to the passage of these Rules and Regulations and situated within the District at a distance not greater than 250 feet from any street, alley or right-of-way in which there is located a District-owed sanitary sewer, shall be required to install suitable toilet facilities therein, and to connect such facilities to public sewer."

Conclusions

As Middle Peninsula localities begin to address Federal and State regulations associated with Chesapeake Bay nutrient goals (ie. Total Maximum Daily Loads (TMDL), clean water, OSDS/AOSS management, and storm water management, there are several approaches and options to consider. In addition to enabling authority throughout the VA Code to provide localities with avenues to manage the temporal deployment of AOSS/OSDS or requiring mandatory hookup, there are variety of localities throughout the Commonwealth that provide examples for Middle Peninsula localities. However upon receipt of funding from DCR and the National Fish and Wildlife Foundation, MPPDC staff and localities will continue to work, develop, assess, and articulate enforceable policy tools necessary to assist localities with the reduction of nutrient loadings.

Appendix A: Commission Meeting Minutes Associated with the Presentation of the Assistance Secretary for Chesapeake Bay Restoration and the Conservation District Coordinator - April 2011

MIDDLE PENINSULA PLANNING DISTRICT COMMISSION
MONTHLY MEETING
April 27, 2011
Saluda, Virginia

The monthly meeting of the Middle Peninsula Planning District Commission was held in the Regional Board Room at the Middle Peninsula Planning District Commission office in Saluda, VA on Wednesday, April 27, 2011, at 7:00 p.m. Chair Louise Theberge (Gloucester County) welcomed everyone in attendance. Commissioners in attendance were: Prue Davis, Bud Smith, and David Whitlow (Essex County); John Northstein (Gloucester County); Eugene Rivara, Cecil Schools, and Otto Williams (King William County); Janine Burns, O. J. Cole, Jr., Tim Hill, and Stephen Whiteway (Mathews County); Carlton Revere, and Kenneth Williams (Middlesex County); Donald Richwine (Town of Urbanna); and Charles Gordon (Town of West Point). Guests were Anthony Moore, Assistant Secretary for Chesapeake Bay Restoration, Wayne Davis, DCR Regional Manager, and fifteen citizens from the region. Middle Peninsula Planning District Commission staff in attendance were Lewis "Lewie" Lawrence, Acting Executive Director; Beth Johnson, Administrative Assistant; Rose Lewis, Secretary; Clara Meier, Regional Projects Planner; Jackie Rickards, Regional Projects Planner; and Candie Newman, Director of Middle Peninsula Business Development Partnership.

The Chesapeake Bay TMDL and the Commonwealth of Virginia's Chesapeake Bay TMDL Watershed Implementation Plan (WIP) Presentation from Anthony Moore, Assistant Secretary for Chesapeake Bay Restoration, and Wayne Davis, Conservation District Coordinator (DCR)

Anthony Moore, Assistant Secretary for Chesapeake Bay Restoration, said that the Chesapeake Bay Commission was formed in 1980 to assist the legislators in evaluating and responding to mutual Bay concerns and fostering intergovernmental cooperation. In 1987, the Chesapeake Bay Commission agreed to reduce nutrients by 40% by the year 2000. The Chesapeake 2000 New agreement required commitment to meet water quality standards in the Bay by 2010. In 2005 new tributary strategies were released. Mr. Moore said that the Chesapeake Bay Program has been very successful and significant reductions in pollution loads in the Bay have been made.

Mr. Moore said that Phase I of the TMDL Program required jurisdictions to develop Watershed Implementation Plans (WIP) which the EPA would use to develop Total Maximum Daily Loads. Phase II will extend TMDL allocations and reduction goals to the local government level in 2011 and Phase III will be the evaluation of plans and necessitate having 60% of the practices in place. Virginia's priorities will include: (1) allowing flexibility in implementation to ensure cost-effective practices are given priority; (2) ground water quality improvements; and (3) reserving the right to modify the plan and adapt as necessary. Some of the current programs that will assist in meeting the goals of the Watershed Implementation Plan are Municipal Separate Storm Sewer Systems, Agriculture BMP Cost Share Program, Chesapeake Bay Preservation Act, Virginia Pollutant Discharge Elimination System, and Clean Air Interstate Rule.

The Virginia Watershed Implementation Plan was submitted in November 2010 and accepted by the Environmental Protection Agency in December 2010. The Plan met all the 2017 target loads for all basins through management actions and the use of existing nutrient credits to achieve those target loads. Adjustments are expected to be made in 2017 depending on the results on the

study of the James River and the expansion of the credit exchange program. In 2005, the Expanded Nutrient Credit Exchange was established for each watershed under the State Water Control Board issued Watershed General Permit. Point sources are allowed to trade credits under this permit. The Commonwealth wants to expand the credit exchange program to include agriculture, stormwater, and on-site septic systems as effective methods of meeting their allocations. The Commonwealth is looking into ways as to expand the program by working with stakeholders to solicit their ideas and concerns and hopes to have a proposal ready for the 2012 session of the General Assembly to review.

Mr. Moore said that allocations for 2017 will be met through Watershed General Permits. Also a wastewater proposal will propose that new facilities under 1000 gpd must offset their entire nutrient load. The onsite/septic proposals will require all new and replacement systems in the Chesapeake Bay watershed to use new nitrogen reducing technology, the implementation of new regulations for alternative systems that are currently under development and establishment of a tax credit or other financial incentive for the upgrade or replacement of existing conventional systems with systems that have nitrogen removal technologies. The Department of Health is currently updating their records which will set performance standards for new systems. An incentive program may be established to help with upgrading or replacing old systems. The Agriculture/Forestry proposals will include extensive implementation of resource management plans on agricultural acres and improved implementation of forestry water quality BMP requirements. The focus will be on larger farms initially and will investigate incentive programs to help farmers develop these resource management plans (if funds are available). A database will be established and maintained of onsite voluntary best management practices that will limit the amount of nutrients and sediments entering state water from agriculture and silviculture as required by legislation that was passed last year. The Urban/Suburban Stormwater proposals will require nutrient management plans on all municipally owned lands and golf courses that use fertilizer and the plan proposes stormwater retrofits on existing developed lands to reduce nitrogen, phosphorus and sediment.

Revisions to the Chesapeake Bay Model to correct currently known deficiencies are to be completed by June 30, 2011. The State will develop and have actions from a smaller, local scale of the Phase II Watershed Implementation Plan; draft will be submitted December 1, 2011. There will be an EPA review and comment by January 3, 2012 and the final Phase II will be submitted to the EPA by March 30, 2012. In 2017, States will develop and submit Phase III WIPs, adjust allocations on state plans, and TMDL allocations modifications by December 2017.

Question and answer period held regarding stakeholders involved in regulations, onsite systems, lack of Middle Peninsula region representation on the stakeholders advisory committee for local governments, communication with health departments, localities assistance in collecting information, Federal and State funding resources, and active role of MPPDC in Phase II and Phase III Watershed Implementation Plans. David Wayne, DCR Regional Manager, said that he is willing to work with the local governments in the Middle Peninsula region.

Appendix B:
June 2011 Commission Meeting –
Policy Discussion Panel on Water Quality

MIDDLE PENINSULA PLANNING DISTRICT COMMISSION
DINNER MEETING
June 22, 2011
Saluda, Virginia

The Middle Peninsula Planning District Commission hosted a Policy Discussion Panel on Water Quality and dinner meeting at VIMS in Watermen's Hall, Gloucester Point, VA. The meeting was held on June 22, 2011. A regional networking social hour was held at 6:00 p.m. Chair Louise Theberge (Gloucester County) welcomed everyone.

Chair Theberge introduced the Policy Discussion Panel on Water Quality. The speakers were Allen Knapp, Director of Division of Onsite Sewage of the VA Department of Health (VDH); Dr. Bob Croonenberghs, Director of Shellfish Sanitation of the VDH; David Sacks, Assistant Division Director of Department of Conservation and Recreation/Chesapeake Bay Local Assistance Department (DCR/DCR/CBLAD); and A. J. Erskine, Aquaculture Manager and Field Scientist of Bevans Oyster Company, and Dr. Jim Pyne, Chief of Small Communities Division of Hampton Roads Sanitation District (HRSD).

Chair Theberge introduced guests in attendance. Guests were: Tom Murray, VIMS Associate Director for Advisory Services; Joe Schumacher, District Manager of US Congressman Rob Wittman's office; 98th District Delegate Candidates-Sherwood Bowditch, Keith Hodges, Ken Gibson (Beth), and Catesby Jones; and Denise Mosca, Chesapeake Bay Foundation; Pat Duttry, VA Department of Health; and Kathy Vesley-Massey, President of Bay Aging Inc., and Bill Massey.

Mr. Lewis Lawrence, MPPDC Acting Executive Director, thanked the Panel and everyone attending the policy discussion on water quality. Mr. Lawrence said that the panel discussion will include questions and answers regarding failing septic systems, impacts on the acquaculture/seafood industry, and the Chesapeake Bay clean up from the local government's perspective. The issue of clean water is very important to the economy and lifestyle of the Middle Peninsula. The Middle Peninsula watermen depend on clean water, farmers depend on clean ground water and river water for irrigation, and wildlife depend on clean water. Mr. Lawrence said that the Commonwealth of Virginia and the Federal Government have been working to clean the Chesapeake Bay since mid-1980 and now it seems to be moving toward the responsibility of the local governments.

Mr. Lawrence submitted three questions to the panel before the meeting, but time allowed only for the first two questions to be answered.

Question 1:
According to the 2009 Chesapeake Bay and Virginia Waters Clean Up Plan, HB 2646 which was passed during the 2009 GA legislative session directs the Board of Health and the Director of DEQ to develop procedures for qualifying the owners of

failing septic systems etc for betterment loans. As we see the problem in rural coastal communities, access to funding is not the only or even primary barrier to repairing failing septic systems. The most significant barrier appears to be a delay in timely and complete enforcement action. Please take a few minutes and explain, from your perspective, the enforcement philosophy of your agency as it relates to impairments that impact water quality.

Due to lengthy answers, each answer has been shortened.

- Mr. Allen Knapp, Director of Division of Onsite Sewage of the VA Department of Health (VDH): According the VDH, a failing system is considered ground or in-house backup. VDH is most interested in the performance of a septic system. Enforcement is a process. The VDH educate people on maintaining their septic systems, gives notices to failing systems, and advise people how to fix their failing system. VDH cannot condemn people's homes or force them to move out of their homes. Mr. Knapp said that most people have failing systems because of the lack of money.

- Dr. Bob Croonenberghs, Director of Shellfish Sanitation of the VDH: Shoreline surveys should be conducted door-to-door. By conducting these surveys, a high percentage of problems can be made known.

- Mr. David Sacks, Assistant Division Director of Department of Conservation and Recreation/Chesapeake Bay Local Assistance Department (DCR/DCR/CBLAD: Department of Conservation and Recreation has the responsibility of non-point source of discharges. All local governments have erosion sediment program. The local government should implement the erosion regulations.

- Mr. A. J. Erskine, Aquaculture Manager and Field Scientist of Bevans Oyster Company: According to the private oyster industry perspective, water quality is very important to the survival of the oyster industry. Systems need to be fixed and funding need to be identified for low income citizens.

- Mr. Lewis Lawrence, MPPDC Acting Executive Director, said that the MPPDC has been in the septic repair business for over ten years but there is a gap between local governments, health departments, and homeowners.

- Dr. Jim Pyne, Chief of Small Communities Division of Hampton Roads Sanitation District (HRSD): Ways to manage septic systems need to be explored. Water use and waste patterns have changed. The more complex systems have to be managed in order to function properly.

Question 2:

In contrast to natural oyster bars, many of Virginia's aquaculture sites are located near the water's surface and close to the shoreline. Oysters and clams grown in these areas can quickly become exposed to pollution. Sources of pollution include failing septic systems, grey water discharge, poor manure management practices, pet waste, and wildlife excretions. The U.S. Food and Drug Administration (FDA),

state regulators, and the shellfish industry all recognize the potential for illness from eating contaminated raw shellfish. From your perspective, please comment on potential mandated and/or voluntary actions that private citizens, local and state government and the state legislature could take to minimize these problems.

- Mr. Allen Knapp, Director of Division of Onsite Sewage of the VA Department of Health (VDH): Mr. Knapp said that the performance of septic systems should be defined and assessed. Legislators think that septic systems should be upgraded voluntarily. There should be room for improvement for non failing systems and be able to obtain permits without all of the regulations of a new construction. Funding incentives rebates would be a plus for system maintenance so that they can be properly operated and maintained.

- Dr. Bob Croonenberghs, Director of Shellfish Sanitation of the VDH: Look at data for environmental variables: limit hard surfaces, contention ponds, and no discharge zones. Correcting septic system flaws and drain lines take time. Citizens or groups can get involved by maintaining their septic systems, use fertilizer with caution, pet waste clean-up, etc.

- Mr. David Sacks, Assistant Division Director of Department of Conservation and Recreation/Chesapeake Bay Local Assistance Department (DCR/DCR/CBLAD: There are volunteer practices that farmers can take. One example is the cost share program (NRCS) with conservation districts.

- Mr. A. J. Erskine, Aquaculture Manager and Field Scientist of Bevans Oyster Company: Improve water quality and then the oyster industry will be improved. Oysters can filter out nutrients. Improving the water quality in watersheds and tributaries should be prioritized. Government should increase the oyster tax. There should be a support of no discharge zones. Gray water discharge and manure should have bacteria removed. Pet waste should be controlled and wildlife is a large contributor water bacteria.

Mr. Lewis Lawrence, MPPDC Acting Executive Director, opened the floor up to general policy questions to the panelists. Questions asked were regarding:

1. How can we control someone's flushing outside of the Chesapeake Bay watershed?
2. What is the law regulation regarding fertilizing lawns and is it in forced?
3. Is there funding for public sewer?
4. Is it the health department's responsibility to manage septic systems?
5. Are there funds available to assist homeowners in repairing septic systems?
6. Can a reserve drainfield be used if main septic system fails?

Mr. Lewis Lawrence, MPPDC Acting Executive Director, closed the floor to questions.

Appendix C: Septic Enforcement meeting Notes (March 29, 2012)

Septic Enforcement Meeting Notes
March 29, 2012

In Attendance:

M.B. Sheppard—VDH
David Fridley, VDH
Pat Dutry, VDH
Dave Tiller, VDH
Shep Moon, DEQ
Lewie Lawrence, MPPDC
Beth Johnson, MPPDC
Beth Polak, DEQ
Charles Adkins, CA
Martha Little, facilitator

Lewie Lawrence started the meeting by giving the background of the previous discussions regarding septic system enforcement issues. He discussed the summer roundtable meeting where it became apparent that there were some gaps in the current system for enforcing failing systems and providing funding assistance to those in need. He pointed out that the code section for failing septic systems requires this to be handled as a criminal matter as a class 1 misdemeanor. Charles Adkins pointed out that although his office would not write a letter reminding a landowner to comply with the regulations, he would be happy to prosecute a case when the paperwork is brought to him.

David Fridley pointed out that when possible it is preferable to correct the problem without going through the legal system. He described that VDH hears about these issues through either complaints, self referrals or the shellfish sanitation surveys. They then conduct a visit to confirm the issue, send a notice of alleged violation and specify the regulations, a list of corrective actions. Eventually, if the problem has not been corrected, then VDH holds a hearing to make a case decision. After that, the criminal process would begin and they would send the information to the Commonwealth Attorney.

It was briefly discussed that some local governments like Gloucester County have enacted civil penalties for failures related to alternative septic systems, but not conventional ones. More local governments could enact ordinances to enforce septic repair and replacement through existing authority found in the code (section §15.2 1200). Everyone agreed that there is a need to educate local elected officials on this topic and the importance of tying it to economic concerns such as aquaculture and perhaps looking at the idea of an overlay district.

VDH discussed the current process and how they handle these issues when landowners make a good faith effort to fix the problem. It seemed that at various stages of the process if VDH thought the landowner had contacted MPPDC for funding or had taken steps to work with a contractor or get a permit, then they were no longer listed as priorities. The group discussed a particular case example where landowners had appeared to make efforts to fix the problem but after 10 years had actually made no progress towards complying.

The group discussed the magnitude of the problem and the fact that since November 2011 the Division of Shellfish Sanitation had identified 170 cases. Of those, 90 have been corrected according to VDH leaving 80 more to work on and an additional 20 new ones.

NOTE that some Commonwealth Attorneys were not receiving any information of failures as assumed by VDH staff.

The following action items were identified by the group:

1. Provide Commonwealth Attorney, Charles Adkins, with the appropriate code section for enforcement cases;
2. VDH Administrative procedure—Send Commonwealth Attorneys notices of failures;
3. Investigate Gloucester civil penalty clause;
4. Improve relationship with local governments: Discuss enforcement procedures and time line for action;
5. Memorialize the Commonwealth Attorney process—appt with counsel before court—last chance;
6. VDH—send Lewie the PowerPoint on in-house notice of violation and legal enforcement;
7. VDH-fast track aquaculture areas –overlay districts?;
8. MPPDC-start tracking to VRA and DCR;
9. MPPDC –contact VDH when landowners have not followed through with repairs; and
10. Consider mass mailing regarding the financial resources available.[5]

[5] MPPDC is now doing this. On April 23, 2012 VDH staff sent a list of permits issued over the last 6 months

Appendix D: General VPDES Permit (9VAC25-110-80)

9VAC25-110-80. General permit.

Any owner whose registration statement is accepted by the board, or whose permit coverage is automatically renewed, shall comply with the requirements contained herein and be subject to all requirements of 9VAC25-31-170.

General Permit No.: VAG40
Effective Date: August 2, 2011
Expiration Date: August 1, 2016
GENERAL PERMIT FOR DOMESTIC SEWAGE DISCHARGES OF LESS THAN OR EQUAL TO 1,000 GALLONS PER DAY
AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act (33 USC § 1251 et seq.), as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of treatment works with domestic sewage discharges of a design flow of less than or equal to 1,000 gallons per day on a monthly average are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in board regulations that prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I-Effluent Limitations, Monitoring Requirements and Special Conditions, and Part II-Conditions Applicable to All VPDES Permits, as set forth herein.

Part I
Effluent Limitations, Monitoring Requirements and Special Conditions
A. Effluent limitations and monitoring requirements—receiving waters where the 7Q10 flows are less than 0.2 MGD.

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall number 001 to receiving waters where the 7Q10 flows are less than 0.2 MGD.

The discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) (1)	NA	NL	1/year	Estimate
BOD5	NA	30 mg/l	1/year	Grab
Total Suspended Solids	NA	30 mg/l	1/year	Grab
Total Residual Chlorine (2)				
After contact tank	1.0 mg/l	NA	1/year	Grab
Final effluent	NA	0.016 mg/l	1/year	Grab
E. coli (3)	NA	235/100 ml	1/year	Grab
enterococci (4)	NA	104/100 ml	1/year	Grab
Fecal Coliform Bacteria (5)	NA	200/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab
Dissolved Oxygen	5.0 mg/l	NA	1/year	Grab

NL = No Limitation, monitoring required NA = Not Applicable

(1) The design flow of this treatment facility is less than or equal to 1,000 gallons per day.
(2) Applies only when chlorine is used for disinfection and the discharge is into freshwater (see 9VAC25-260-140C for the classes of waters and boundary designations).

(3) Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the facility is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.
(4) Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the facility is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.
(5) Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters). When the facility is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

2. All monitoring data required by Part I A 1 shall be maintained on site in accordance with Part II B. Reporting of results to DEQ is not required; however, the monitoring results shall be made available to DEQ personnel upon request. Monitoring results for treatment works serving individual single family dwellings shall be submitted to the Virginia Department of Health in accordance with 12VAC5-640.
3. The 30-day average percent removal for BOD_5 and total suspended solids shall not be less than 85%.

B. Effluent limitations and monitoring requirements—receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

1. During the period beginning with the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall number 001 to receiving waters where the 7Q10 flows are equal to or greater than 0.2 MGD.

The discharge shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD) (1)	NA	NL	1/year	Estimate
BOD5	NA	30 mg/l	1/year	Grab
Total Suspended Solids	NA	30 mg/l	1/year	Grab
Total Residual Chlorine (2)				
Final effluent	1.0 mg/l	2.0 mg/l	1/year	Grab
E. coli (3)	NA	235/100 ml	1/year	Grab
enterococci (4)	NA	104/100 ml	1/year	Grab
Fecal Coliform Bacteria (5)	NA	200/100 ml	1/year	Grab
pH (standard units)	6.0	9.0	1/year	Grab

NL = No Limitation, monitoring required NA = Not Applicable

(1) The design flow of this treatment facility is less than or equal to 1,000 gallons per day.
(2) Applies only when chlorine is used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations).
(3) Applies only when methods other than chlorine are used for disinfection and the discharge is into freshwater (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the facility is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.
(4) Applies only when the discharge is into saltwater or the transition zone (see 9VAC25-260-140 C for the classes of waters and boundary designations). When the facility is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.
(5) Applies only when the discharge is into shellfish waters (see 9VAC25-260-160 for the description of what are shellfish waters). When the facility is discharging, continuous disinfection shall be provided in order to maintain this effluent limit.

2. All monitoring data required by Part I B 1 shall be maintained on site in accordance with Part II B. Reporting of results to DEQ is not required; however, the monitoring results shall be made available to DEQ personnel upon request. Monitoring results for treatment works serving individual single family dwellings shall be submitted to the Virginia Department of Health in accordance with 12VAC5-640.
3. The 30-day average percent removal for BOD_5 and total suspended solids shall not be less than 85%.

C. Special conditions.
1. There shall be no discharge of floating solids or visible foam in other than trace amounts.
2. Maintenance contract.

a. Treatment works serving individual single family dwellings. The Virginia Department of Health regulations at12VAC5-640-500 require maintenance contracts for treatment works serving individual single family dwellings.

(1) For existing treatment works, the permittee shall keep a maintenance contract in force during the permit term, unless the permittee has been granted a variance from the maintenance contract requirement by the Virginia Department of Health. A copy of the maintenance contract, if applicable, shall be kept at the site of the treatment works and shall be made available to DEQ or to the Virginia Department of Health for examination upon request. The permittee is also responsible for ensuring that the local health department has a current copy of a valid maintenance agreement in accordance with 12VAC5-640-500 B.

(2) For proposed treatment works, the permittee shall submit a copy of a valid maintenance contract to both DEQ and the Virginia Department of Health prior to operation of the treatment works unless the permittee has been granted a variance from the maintenance contract requirement by the Virginia Department of Health. The maintenance contract shall be kept in force during the permit term. A copy of the maintenance contract, if applicable, shall be kept at the site of treatment works, and made available to DEQ or the Virginia Department of Health for examination upon request. The permittee is also responsible for ensuring that the local health department has a current copy of a valid maintenance agreement in accordance with 12VAC5-640-500 B.

(3) At a minimum, the maintenance contract shall provide for the following:

(a) Performance of all testing required in either Part I A or Part I B of this permit, as appropriate, and in the Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings, 12VAC5-640-490 B, unless the owner maintains a separate monitoring contract in accordance with 12VAC5-640-490 F. Note: The treatment works should be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that facility). The owner or maintenance provider should not force a discharge in order to collect a sample;

(b) A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works including all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated in the dwelling if full and complete repairs cannot be accomplished within 48 hours; and

(c) The maintenance contract shall be valid for a minimum of 24 months of consecutive coverage.

b. Treatment works serving nonsingle family dwellings.

(1) For existing treatment works, the permittee shall keep a maintenance contract in force during the permit term, unless an exception to the maintenance contract requirement has been requested and granted in accordance with Part I C 3. A copy of the

maintenance contract, if applicable, shall be kept at the site of the treatment works and made available to DEQ for examination upon request.

(2) For proposed treatment works, the permittee shall submit a copy of a valid maintenance contract to DEQ prior to operation of the treatment works, unless an exception to the maintenance contract requirement has been requested and granted in accordance with Part I C 3. The maintenance contract shall be kept in force during the permit term. A copy of the maintenance contract shall be kept at the site of treatment works, and shall be made available to DEQ for examination upon request.

(3) At a minimum, the maintenance contract shall provide for the following:

(a) Performance of all testing required in accordance with either Part I A or Part I B, as appropriate, and periodic (at least annual) inspections of the treatment works. Note: The treatment works should be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that facility). The owner or maintenance provider should not force a discharge in order to collect a sample;

(b) A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works including all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated from the facility or dwelling if full and complete repairs cannot be accomplished within 48 hours;

(c) A log of the following items shall be maintained by the contract provider:

(i) Results of all tests and sampling. Note: If sampling is attempted, but no sample was taken or possible, the log shall show all sampling attempts, and document and explain why no sample was taken or possible;

(ii) Alarm activation incidents;

(iii) Maintenance, corrective, or repair activities performed;

(iv) Recommended repair or replacement items; and

(v) Copies of all reports prepared by the contract provider;

(d) An inspection shall be conducted by the contract provider within 48 hours after notification by the owner that a problem may be occurring; and

(e) The maintenance contract shall be valid for a minimum of 24 months of consecutive coverage.

3. Operation and maintenance plan. The owner of any treatment works serving a nonsingle family dwelling may request an exception to the maintenance contract requirement by submitting an operation and maintenance plan to the board for review and approval. At a minimum, the operation and maintenance plan shall contain the following information:

a. An up-to-date operation and maintenance manual for the treatment works;

b. A log of all maintenance performed on the treatment works including, but not limited to, the following:

(1) The date and amount of disinfection chemicals added to the chlorinator.

(2) If dechlorination is used, the date and amount of any dechlorination chemicals that are added.

(3) The date and time of equipment failure(s) and the date and time the equipment was restored to service.

(4) The date and approximate volume of sludge removed.

(5) Results of all tests and sampling. Note: If sampling is attempted, but no sample was taken or possible, the log shall show all sampling attempts, and document and explain why no sample was taken or possible;

c. Dated receipts for chemicals purchased, equipment purchased, and maintenance performed; and

d. An effluent monitoring plan to conform with the requirements of Part I A or Part I B, as appropriate, including all sample collection, preservation, and analysis procedures. Note: The treatment works should be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that facility). The owner or maintenance provider should not force a discharge in order to collect a sample.

Should the permittee fail to implement the approved operation and maintenance plan, or if there are violations of effluent limitations, the board reserves the right to require the permittee to obtain a maintenance contract.

4. Compliance recordkeeping under Part I A and Part I B.

a. The quantification levels (QL) shall be less than or equal to the following concentrations:

Effluent Parameter	Quantification Level
BOD_5	2.0 mg/l
TSS	1.0 mg/l
Chlorine	0.10 mg/l

The QL is defined as the lowest concentration used to calibrate a measurement system in accordance with the procedures published for the test method.

b. Recording results. Any concentration data below the QL used in the analysis shall be recorded as "<QL" if it is less than the QL in subdivision a. Otherwise the numerical value shall be recorded.

c. Monitoring results shall be recorded using the same number of significant digits as listed in the permit. Regardless of the rounding convention used by the permittee (e.g., 5 always rounding up or to the nearest even number), the permittee shall use the convention consistently, and shall ensure that consulting laboratories employed by the permittee use the same convention.

5. The discharges authorized by this permit shall be controlled as necessary to meet water quality standards.

Part II
Conditions Applicable to all VPDES Permits

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
    a. The date, exact place, and time of sampling or measurements;
    b. The individual(s) who performed the sampling or measurements;
    c. The date(s) and time(s) analyses were performed;
    d. The individual(s) who performed the analyses;
    e. The analytical techniques or methods used; and
    f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the

date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results. Monitoring results under this permit are not required to be submitted to the department. However, should the board request that the permittee submit monitoring results, the following subsections would apply.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.
3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted on the DMR or reporting form specified by the department.
4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department, upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, to animal or aquatic life, to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F, or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;

5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include, but are not limited to, any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;
2. Breakdown of processing or accessory equipment;
3. Failure or taking out of service some or all of the treatment works; and
4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance that may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information that shall be reported within 24 hours under this paragraph:
    a. Any unanticipated bypass; and
    b. Any upset that causes a discharge to surface waters.
2. A written report shall be submitted within five days and shall contain:
    a. A description of the noncompliance and its cause;
    b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
    c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

    The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.
3. The permittee shall report all instances of noncompliance not reported under Part II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Parts II G, H, and I may be made to the department's regional office. Reports may be made by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Management maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under Section 306 of Clean Water Act that are applicable to such source; or

(2) After proposal of standards of performance in accordance with Section 306 of Clean Water Act that are applicable to such source, but only if the standards are promulgated in accordance with Section 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants that are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or other actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1 or by a duly authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part II K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under Section 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply.

1. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, and the permittee does not qualify for automatic permit coverage renewal, the permittee shall submit a new registration statement at least 60 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

2. A permittee qualifies for automatic permit coverage renewal and is not required to submit a registration statement if:

   a. The ownership of the treatment works has not changed since this general permit went into effect on August 2, 2011, or, if the ownership has changed, a new registration statement or VPDES Change of Ownership form was submitted to the department at the time of the title transfer;

   b. There has been no change in the design or operation, or both, of the treatment works since this general permit went into effect on August 2, 2011;

   c. For treatment works serving individual single family dwellings, the Virginia Department of Health does not object to the automatic permit coverage renewal for this treatment works based on system performance issues, enforcement issues, or other issues sufficient to the board. If the Virginia Department of Health objects to the automatic renewal for this treatment works, the permittee will be notified by the board in writing; and

   d. For treatment works serving nonsingle family dwellings, the board has no objection to the automatic permit coverage renewal for this treatment works based on system performance issues, or enforcement issues. If the board objects to the automatic renewal for this treatment works, the permittee will be notified in writing.

Any permittee that does not qualify for automatic permit coverage renewal shall submit a new registration statement in accordance with Part II M 1.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to, any other state law or regulation or under authority preserved by Section 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also include effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems that are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Parts II U 2 and 3.
2. Notice.
    a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.
    b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in Part II I.
3. Prohibition of bypass.
    a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:
        (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass after considering its adverse effects if the board determines that it will meet the three conditions listed above in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.
2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:
    a. An upset occurred and that the permittee can identify the cause(s) of the upset;
    b. The permitted facility was at the time being properly operated;
    c. The permittee submitted notice of the upset as required in Part II I; and
    d. The permittee complied with any remedial measures required under Part II S.
3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. Inspection and entry. The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination, or notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.
2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:
    a. The current permittee notifies the department within 30 days of the transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

Statutory Authority

§ 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123, and 124.

Historical Notes

Derived from VR680-14-09 § 8, eff. July 1, 1992; amended, Virginia Register Volume 12, Issue 19, eff. August 1, 1996; Volume 17, Issue 16, eff. August 1, 2001; Volume 22, Issue 4, eff. November 30, 2005; Volume 27, Issue 12, eff. August 2, 2011.

Appendix E: Registration Statement Form

Web Location -
(http://www.deq.virginia.gov/Portals/0/DEQ/Water/PollutionDischargeElimination/VAG40RegistrationStatement2011.pdf)

VIRGINIA DEQ REGISTRATION STATEMENT
VPDES GENERAL PERMIT FOR DOMESTIC SEWAGE DISCHARGES <= 1,000 GPD

Please Type or Print All Information

1a. Is this facility a single family dwelling? Yes ☐ No ☐

If "No", describe the facility's use: _____

1b. Name of Facility/Residence _____

Address of Facility _____
Street City State Zip

2. Facility owner(s) _____
Last Name First Name M.I.

_____
Last Name First Name M.I.

Address of Owner _____
Street City State Zip

Email address _____

Phone Number(s) _____
Home Work

If the facility is a dwelling, is or will the owner be the occupant of the dwelling? Yes ☐ No ☐

3. Name of water body receiving the discharge _____

Is the discharge point on a stream that usually flows during dry weather? Yes ☐ No ☐

4. Amount of discharge (gallons per day) on a monthly average _____

Design flow of the treatment works (gallons per day) _____

5. Are any pollutants other than domestic sewage to be discharged? Yes ☐ No ☐

If "Yes", please explain _____

6. How will the discharge be disinfected? Chlorination ☐ Ultraviolet Radiation ☐ Other ☐

7. Is there another discharge point covered by a VPDES permit located within 500 feet of the discharge point identified in this Registration Statement? Yes ☐ No ☐

8. If this is a proposed facility, are central sewage facilities available to serve this facility? Yes ☐ No ☐

9. Does this facility currently have a VPDES permit? Yes ☐ No ☐

If "Yes", please provide the VPDES permit number _____

Has the facility been built and begun to discharge? Yes ☐ No ☐

10. Required attachments for the owner of any proposed treatment works or any treatment works that has not previously been issued a VPDES permit:

a. A 7.5 minute USGS topographic map or equivalent (e.g., a computer generated map) that indicates the discharge point, the location of the property to be served by the treatment works, and the location of any wells, springs, other water bodies, and any residences within ½ mile downstream from the discharge point;

b. A site diagram of the existing or proposed sewage treatment works; to include the property boundaries, the location of the facility or dwelling to be served, the individual sewage treatment units, the receiving water body, and the discharge line location; and

c. A copy of the notification from the Virginia Department of Health (VDH) that an onsite sewage disposal system permit has been applied for and that the VDH has determined that there is no onsite system available to serve that parcel of land.

11. For the owner of a treatment works serving an **individual single family dwelling**, has a valid maintenance contract been obtained in accordance with the VDH requirements in 12VAC5-640-500? Yes ☐ No ☐

    If "Yes", provide the name of the contract provider _____

    and the expiration date of the current contract _____

    If "No", has a variance to the maintenance contract requirement has been requested from and granted by the Virginia Department of Health? Yes ☐ No ☐

12. For the owner of a treatment works serving an **individual single family dwelling**, has a monitoring contract been obtained in accordance with the VDH requirements in 12VAC5-640-490 F? Yes ☐ No ☐

    If "Yes", provide the name of the contract provider _____

    and the expiration date of the current contract _____

    If "No", has a waiver of the monitoring contract requirement been requested from and granted by the Virginia Department of Health? Yes ☐ No ☐

    OR

    Are the monitoring requirements are included as part of the maintenance contract? Yes ☐ No ☐

13. For the owner of a treatment works serving a **non-single family dwelling**, has a valid maintenance contract been obtained? Yes ☐ No ☐

    If "Yes", provide the name of the contract provider _____

    and the expiration date of the current contract _____

    If "No", has an exception to the maintenance contract been requested and granted by the Board/DEQ in accordance with Section 14 below? Yes ☐ No ☐

14. The owner of a treatment works serving a **non-single family dwelling** may request an exception to the maintenance contract requirement by submitting an Operation and Maintenance Plan to the Board/DEQ for review and approval.

    Has an Operation and Maintenance Plan been previously approved by the Board/DEQ? Yes ☐ No ☐

    If "Yes", provide the date of approval of the Operation and Maintenance Plan _____

    Have any changes been made to the Operation and Maintenance Plan? Yes ☐ No ☐

    If "Yes", explain the changes _____

    _____

15. **Certification**: "I hereby grant to duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property where the treatment works is located for the purpose of determining compliance with or the suitability of coverage under the General Permit. I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

    Signature(s): _____ Date: _____

    _____ Date: _____

For Department of Environmental Quality Use Only

Accepted/Not Accepted by: _____ Date: _____

Basin _____ Subbasin _____ Stream Class _____ Section _____

Special Standards _____

REGISTRATION STATEMENT INSTRUCTIONS
VPDES GENERAL PERMIT FOR DOMESTIC SEWAGE DISCHARGES <= 1,000 GPD

General
A Registration Statement must be submitted to DEQ by any owner requesting coverage under this general permit for a discharging domestic sewage treatment works with a design flow of less than or equal to 1,000 gallons per day on a monthly average. Contact the nearest DEQ regional office if you have questions about completing or filing this form.

Section 1 Facility Information
Indicate if this facility is a single family dwelling. If it is not, describe the facility's use.
Provide the name and address of the facility/residence.

Section 2 Owner Information
Provide the name(s), mailing address, email address (if available) and telephone number(s) of the owner(s) of the facility.
If the facility is a dwelling, indicate if the owner is or will be the occupant of the facility.

Section 3 Receiving Water Information
Provide the name of the water body that receives the discharge. Indicate if the receiving stream usually flows during dry weather.

Section 4 Discharge Quantity
Provide the monthly average amount of discharge in gallons per day, and the design flow of the treatment works in gallons per day.

Section 5 Other Pollutants
Indicate if any pollutants other than domestic sewage are discharged from this facility. Provide further explanation if applicable.

Section 6 Discharge Disinfection
Indicate if the discharge will be disinfected by chlorination, ultraviolet radiation or other (e.g., ozone gas, etc.)

Section 7 Separation Distance Between Discharges
Indicate if a discharge point from another wastewater treatment facility also authorized under a VPDES permit is located within 500 feet of the discharge from the facility identified in this Registration Statement. A discharge point is generally observed as a pipe, but may include a ditch or channel, through which treated wastewater is discharged from the treatment facility to surface waters.

Section 8 Central Sewage Facilities
If this is a proposed facility, indicate if central sewage facilities are available to serve this facility.

Section 9 VPDES Permit Information
Indicate if this facility is currently covered under a VPDES permit, and if so, provide the permit number. Also indicate if this facility has been built and begun to discharge.

Section 10 Required Attachments For the Owner of Any Proposed Treatment Works or Any Treatment Works That Has Not Previously Been Issued a VPDES Permit

Item a. A 7.5 minute USGS topographic map or the equivalent (e.g., a computer generated map) that indicates the discharge point, the location of the property to be served by the treatment works, and the location of any wells, springs, other water bodies, and any residences within 1/2 mile downstream from the discharge point. The map should be legible and of sufficient scale to show the required features clearly marked.

Item b. A site diagram of the existing or proposed sewage treatment works; to include the property boundaries, the location of the facility or dwelling to be served, the individual sewage treatment units, the receiving water body, and the discharge line location. The site diagram should be legible and show the proposed or existing treatment works, and should identify individual treatment units and other required features.

Item c. A copy of the notification from the Virginia Department of Health (VDH) that an onsite sewage disposal system permit has been applied for. and that the VDH has determined that there is no onsite system available to serve that parcel of land. Contact the respective local health department and obtain the required notification.

Section 11 Maintenance Contract Requirement – Treatment Works Serving Single Family Dwellings
The Virginia Department of Health regulations at 12VAC5-640-500 require maintenance contracts for treatment works serving **individual single family dwellings**. The owner must indicate if a valid maintenance contract has been obtained in accordance with the VDH requirements, or if an variance to the requirement has been requested and granted by the VDH. If a valid maintenance contract has been obtained, provide the name of the individual or company contracted to perform the treatment works maintenance, and the expiration date of the current contract. <u>For proposed treatment works, the owner must submit a copy of a valid maintenance contract to both DEQ and the VDH prior to operation of the treatment works, unless the permittee has been granted a maintenance contract variance by the VDH.</u>

At a minimum, the maintenance contract shall provide for the following:

(a) Performance of all testing required in both this VPDES permit and in the VDH Alternative Discharging Sewage Treatment Regulations for Individual Single Family Dwellings, 12VAC5-640-490 B, unless the owner maintains a separate monitoring contract in accordance with 12VAC5-640-490 F. Note: The treatment works should be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that facility). The owner or maintenance provider should not force a discharge in order to collect a sample;

(b) A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works including all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated in the dwelling if full and complete repairs cannot be accomplished within 48 hours; and

(c) The maintenance contract shall be valid for a minimum of 24 months of consecutive coverage.

Section 12 Monitoring Contract Requirement - Treatment Works Serving Single Family Dwellings
The Virginia Department of Health regulations at 12VAC5-640-490 F require monitoring contracts for treatment works serving **individual single family dwellings**. The owner must indicate if a valid monitoring contract has been obtained in accordance with

the VDH requirements, or if a waiver from the requirement has been requested and granted by the VDH. If a monitoring contract has been obtained, provide the name of the individual or company contracted to perform the monitoring, and the expiration date of the current contract.

Section 13 Maintenance Contract Requirement – Treatment Works Serving Non-Single Family Dwellings

The owner of a treatment works serving a **non-single family dwelling** must indicate if a valid maintenance contract has been obtained, or if an exception to the maintenance contract requirement has been requested and granted by the Board/DEQ. If a valid maintenance contract has been obtained, provide the name of the individual or company contracted to perform the treatment works maintenance, and the expiration date of the current contract. For proposed treatment works, the owner must submit a copy of a valid maintenance contract to DEQ prior to operation of the treatment works, unless an exception has been requested and granted in accordance with Section 14 below.

At a minimum, the maintenance contract shall provide for the following:

(a) Performance of all testing required by this VPDES permit, and periodic (at least annual) inspections of the treatment works. Note: The treatment works should be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that facility). The owner or maintenance provider should not force a discharge in order to collect a sample;

(b) A written notification to the owner within 24 hours whenever the contract provider becomes aware that maintenance or repair of the owner's treatment works is necessary. The owner is responsible for prompt maintenance and repair of the treatment works including all costs associated with the maintenance or repair. Immediately upon receipt of notice that repair or maintenance is required, the owner shall begin emergency pump and haul of all sewage generated from the facility or dwelling if full and complete repairs cannot be accomplished within 48 hours;

(c) A log of the following items shall be maintained by the contract provider:

(1) Results of all tests and sampling. Note: If sampling is attempted, but no sample was taken or possible, the log shall show all sampling attempts, and document and explain why no sample was taken or possible;

(2) Alarm activation incidents;

(3) Maintenance, corrective, or repair activities performed;

(4) Recommended repair or replacement items; and

(5) Copies of all reports prepared by the contract provider;

(d) An inspection shall be conducted by the contract provider within 48 hours after notification by the owner that a problem may be occurring; and

(e) The maintenance contract shall be valid for a minimum of 24 months of consecutive coverage.

Section 14 Operation and Maintenance Plan – Treatment Works Serving Non-Single Family Dwellings

In lieu of obtaining a maintenance contract per Section 13 above, the owner of a treatment works serving a **non-single family dwelling** may submit an Operation and Maintenance Plan with the Registration Statement to the Board/DEQ for review and approval. If an Operation and Maintenance Plan has been approved by the Board/DEQ previously and remains current and complete, then it does not need to be resubmitted. In such case, indicate the date of approval. If changes have been made to the previously approved Operation and Maintenance Plan, explain the changes. The Plan must meet all specified requirements. For proposed treatment works, the owner must submit the Operation and Maintenance Plan to and receive an approval from the Board/DEQ prior to operation.

At a minimum, the operation and maintenance plan shall contain the following information:

(a) An up-to-date operation and maintenance manual for the treatment works;

(b) A log of all maintenance performed on the treatment works including, but not limited to, the following:

(1) The date and amount of disinfection chemicals added to the chlorinator.

(2) If dechlorination is used, the date and amount of any dechlorination chemicals that are added.

(3) The date and time of equipment failure(s) and the date and time the equipment was restored to service.

(4) The date and approximate volume of sludge removed.

(5) Results of all tests and sampling. Note: If sampling is attempted, but no sample was taken or possible, the log shall show all sampling attempts, and document and explain why no sample was taken or possible;

(c) Dated receipts for chemicals purchased, equipment purchased, and maintenance performed; and

(d) An effluent monitoring plan to conform with the requirements of the permit including all sample collection, preservation, and analysis procedures. Note: The treatment works should be sampled during normal discharging operations or normal discharging conditions (i.e., operations that are normal for that facility). The owner or maintenance provider should not force a discharge in order to collect a sample.

Section 15 Certification

The certification must bear an original signature in ink; photocopies are not acceptable. State statutes provide for severe penalties for submitting false information on this Registration Statement. Generally, the Registration Statement should be signed by the property owner. State regulations require this Registration Statement to be signed as follows:

(1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

Appendix F: Permit Fees

Web location –
http://www.deq.state.va.us/Portals/0/DEQ/Water/PollutionDischargeElimination/WaterPermitFeeForm.pdf

DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION
PERMIT APPLICATION FEE FORM
EFFECTIVE JANUARY 1, 2008

INSTRUCTIONS

Applicants for individual Virginia Pollutant Discharge Elimination System (VPDES), Virginia Pollution Abatement (VPA), Virginia Water Protection (VWP), Surface Water Withdrawal (SWW), and Ground Water Withdrawal (GWW) Permits are required to pay permit application fees, except farming operations engaged in production for market. Fees are also required for registration for coverage under General Permits except for the general permits for sewage treatment systems with discharges of 1,000 gallons per day (GPD) or less and for Corrective Action Plans for leaking underground storage tanks. Except for VWP permits, fees must be paid when applications for permit issuance, reissuance* or modification are submitted. Applicants for VWP permits will be notified by the DEQ of the fee due. Applications will be considered incomplete if the proper fee is not paid and will not be processed until the fee is received. (* - the reissuance fee does not apply to VPDES and VPA permits - see the fee schedule included with this form for details.)

The permit fee schedule is included with this form. Fees for permit issuance or reissuance and for permit modification are included. Once you have determined the fee for the type of application you are submitting, complete this form. The original copy of the form and your check or money order payable to "Treasurer of Virginia" should be mailed to:

Department of Environmental Quality
Receipts Control
P.O. Box 1104
Richmond, VA 23218

A copy of the form and a copy of your check or money order should accompany the permit application. You should retain a copy for your records. Please direct any questions regarding this form or fee payment to the DEQ Office to which you are submitting your application.

APPLICANT NAME: _____

ADDRESS: _____

_____

_____

DAYTIME PHONE: _____ (Area Code)

IRS Employer Identification Number (EIN):
[*aka* Federal Tax Identification Number (FIN)] _____

FACILITY/ACTIVITY NAME: _____

LOCATION: _____

TYPE OF PERMIT APPLIED FOR:
(from Fee Schedule - see back of form) _____

TYPE OF ACTION: ☐ **New Issuance** ☐ **Reissuance** ☐ **Modification**

AMOUNT OF FEE SUBMITTED (from Fee Schedule)**:** _____

EXISTING PERMIT NUMBER (if applicable)**:** _____

DEQ OFFICE TO WHICH APPLICATION SUBMITTED (check one)

☐ **Abingdon/SWRO**	☐ **Harrisonburg/VRO**	☐ **Woodbridge/NVRO**	☐ **Lynchburg/BRRO-L**
☐ **Richmond/PRO**	☐ **Richmond/Headquarters**	☐ **Roanoke/BRRO-R**	☐ **Virginia Beach/TRO**

FOR DEQ USE ONLY
Date: _____
DC #: _____

Original Form and Check - DEQ Receipts Control, Richmond

Copy of Form and Copy of Check - DEQ Regional Office or Permit Program Office

Revised January 25, 2010

FEE SCHEDULES

A. VPDES and VPA Permits. Applications for issuance of new individual VPDES or VPA permits, and for permittee initiated major modifications that occur (and become effective) before the stated permit expiration date. (Flows listed are facility "design" flows. Land application rates listed are facility "design" rates.) [NOTE: VPDES and VPA permittees pay an Annual Permit Maintenance Fee (APMF) instead of a reapplication fee. The permittee is billed separately by DEQ for the APMF.]

TYPE OF PERMIT	ISSUANCE	MODIFICATION	LAND APP MOD*
VPDES Industrial Major	$24,000	$12,000	
VPDES Municipal Major	$21,300	$10,650	$1,000
VPDES Industrial Minor / No Standard Limits	$10,200	$5,150	
VPDES Industrial Minor / Standard Limits	$3,300	$3,300	
VPDES Industrial Stormwater	$7,200	$3,600	
VPDES Municipal Minor / Greater Than 100,000 GPD	$7,500	$3,750	$1,000
VPDES Municipal Minor / 10,001 GPD - 100,000 GPD	$6,000	$3,000	$1,000
VPDES Municipal Minor / 1,001 GPD - 10,000 GPD	$5,400	$2,700	$1,000
VPDES Municipal Minor / 1,000 GPD or Less	$2,000	$1,000	
VPDES Municipal Minor / 1,000 GPD or Less that includes authorization for land application or land disposal of sewage sludge	$5,000	$1,000	$1,000
VPA Industrial Wastewater Operation / Land Application of 10 or More Inches Per Year	$15,000	$7,500	
VPA Industrial Wastewater Operation / Land Application of Less Than 10 Inches Per Year	$10,500	$5,250	
VPA Industrial Sludge Operation	$7,500	$3,750	
VPA Municipal Wastewater Operation	$13,500	$6,750	
VPA Municipal Sludge Operation	$5,000	$1,000	
All other VPA operations not specified above	$750	$375	

* The fee for modification of a VPDES permit due to changes relating to authorization for land application or land disposal of sewage sludge shall be $1,000.

B. Virginia Water Protection (VWP) Permits. Applications for issuance of new individual, and reissuance or major modification of existing individual VWP permits. Only one permit application fee will be assessed per application; for a permit application involving more than one of the operations described below, the governing fee shall be based upon the primary purpose of the proposed activity. (Withdrawal amounts shown are maximum daily withdrawals.)

TYPE OF PERMIT	ISSUANCE/REISSUANCE	MODIFICATION
VWP Individual / Surface Water Impacts (Wetlands, Streams and/or Open Water)	$2,400 plus $220 for each 4,356 sq. ft. (1/10 acre) (or portion thereof) of incremental impact over 87,120 sq. ft. (two acres) ($60,000 maximum)	$1,200 plus $110 for each 4,356 sq. ft. (1/10 acre) (or portion thereof) of incremental impact over 87,120 sq. ft. (two acres) ($30,000 maximum)
VWP Individual/Minimum Instream Flow - Withdrawals equal to or greater than 3,000,000 gallons on any day	$25,000	$5,000
VWP Individual / Minimum Instream Flow - Withdrawals between 2,000,000 and 2,999,999 gallons on any day	$20,000	$5,000
VWP Individual / Minimum Instream Flow - Withdrawals between 1,000,000 and 1,999,999 gallons on any day	$15,000	$5,000
VWP Individual / Minimum Instream Flow - Withdrawals < 1,000,000 gallons on any day that do not otherwise qualify for a general VWP permit for water withdrawals	$10,000	$5,000
VWP Individual / Reservoir - Major	$35,000	$12,500
VWP Individual / Reservoir - Minor	$25,000	$12,500
VWP Individual/Nonmetallic Mineral Mining	$2,400 plus $220 for each 4,356 sq. ft. (1/10 acre) (or portion thereof) of incremental impact over 87,120 sq. ft. (two acres) ($7,500 maximum)	$1,200 plus $110 for each 4,356 sq. ft. (1/10 acre) (or portion thereof) of incremental impact over 87,120 sq. ft. (two acres) ($3,750 maximum)

C. Surface Water Withdrawal (SWW) and Ground Water Withdrawal (GWW) Permits. Applications for issuance of new individual, and reissuance or major modification of existing individual SWW permits or GWW permits.

TYPE OF PERMIT	ISSUANCE/REISSUANCE	MODIFICATION
Surface Water Withdrawal	$12,000	$6,000
Ground Water Withdrawal / Initial Permit for an Existing Withdrawal Based Solely on Historic Withdrawals	$1,200	$600
Ground Water Withdrawal	$6,000	$3,000

D. Registration Statements (VPDES and VPA permits) or Applications (VWP permits) for General Permit Coverage.

1. Except as specified in 2, 3, and 4 below, the fee for registration for coverage under a general permit is $600.

2. General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 GPD (VAG40) = $0.
General VPDES Permit Regulation for Discharges From Petroleum Contaminated Sites (VAG83) = $0.

3. VWP General Permit:

TYPE OF PERMIT	ISSUANCE
VWP General / Less Than 4,356 sq. ft. (1/10 acre) of Surface Water Impact (Wetlands, Streams and/or Open Water)	$0
VWP General / 4,356 sq. ft. to 21,780 sq. ft. (1/10 acre to 1/2 acre) of Surface Water Impact (Wetlands, Streams and/or Open Water)	$600
VWP General / 21,781 sq. ft. to 43,560 sq. ft. (greater than 1/2 acre to one acre) of Surface Water Impact (Wetlands, Streams and/or Open Water)	$1,200
VWP General / 43,561 sq. ft. to 87,120 sq. ft. (greater than one acre to two acres) of Surface Water Impact (Wetlands, Streams and/or Open Water)	$1,200 plus $120 for each 4,356 sq. ft. (1/10 acre) (or portion thereof) of incremental impact over 43,560 sq. ft. (one acre) ($2,400 maximum)
VWP General / Minimum Instream Flow / Reservoir - Water withdrawals and/or pond construction	$2,400

4. General VPDES Permit for Industrial Activity Storm Water Discharges (VAR05) = $500.

Appendix E: Registration Statement Form

Web Location -
(http://www.deq.virginia.gov/Portals/0/DEQ/Water/PollutionDischargeElimination/VAG40RegistrationStatement2011.pdf)

Appendix F: Permit Fees

Web location –
http://www.deq.state.va.us/Portals/0/DEQ/Water/PollutionDischargeElimination/WaterPermitFeeForm.pdf

Appendix G: Code of Virginia - Title 21 Drainage, Soil Conservation, Sanitation and Public Facilities Districts - Section 21-116 Enlargement of sanitary districts

§ 21-113. Creation; inclusion of town in new or enlarged district
The circuit court of any county in this Commonwealth, or the judge of such court in vacation, upon the petition of 50 qualified voters of a proposed district, or if the proposed district contains less than 100 qualified voters upon petition of fifty percent of the qualified voters of the proposed district, may make an order creating a sanitary district or districts in and for the county, which order shall prescribe the metes and bounds of the district.

With the approval of the board of supervisors of a county and the council of any town therein, such town or any part thereof may be included within a sanitary district created or enlarged under the provisions of this chapter.

§ 21-114. Hearing and notice thereof
Upon the filing of the petition the court shall fix a day for a hearing on the question of the proposed sanitary district which hearing shall embrace a consideration of whether the property embraced in the proposed district will or will not be benefited by the establishment thereof; all interested persons, who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement, shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing; notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the court or the judge thereof in vacation. At least ten days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication and no such district shall be created until the notice has been given and the hearing had.

§ 21-115. Answer and defense
Any person interested may answer the petition and make defense thereto; and if upon such hearing the court, or the judge thereof in vacation, as the case may be, be of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment of such district, then such property shall not be embraced therein.

§ 21-116. Enlargement of sanitary districts
The circuit court, or the judge of such court in vacation, upon the petition of the governing body of the county and of twenty-five percent of the qualified voters, if any, residing within the limits of the territory proposed to be added, may make an order extending the boundaries and enlarging any sanitary district created under the provisions of this article, which order shall prescribe the metes and bounds of the territory so added.

Upon the filing of the petition a hearing shall be had as provided in §§ 21-114 and 21-115, and the notice of such hearing may require all interested persons to appear and show cause why any special tax levied or to be levied in the sanitary district for special sanitary district purposes may not be likewise levied and collected in the territory proposed to be added to such district, and to appear and show cause why the net operating revenue derived in the added territory from the operation of any system or systems established under the provisions of § 21-118 may not be set apart to pay the interest on and retire at maturity the principal of any bonds theretofore issued in connection with such system or systems. Nothing in such order enlarging a sanitary district as provided herein shall be construed to limit or adversely affect the rights and interests of any holder of bonds issued by the district, and such order shall expressly preserve and protect such rights and interests. All interested persons, who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement, shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing.

§ 21-116.1. Alteration of boundaries or reduction of area of sanitary districts in certain counties

Chapter 549 of the Acts of 1950, as amended by Acts 1952, c. 202, relating to alteration of boundaries or reduction of area of sanitary districts in any county adjoining a county having a population in excess of 2,000 per square mile, is incorporated in this Code by this reference.

§ 21-117. Merger of sanitary districts

Any two or more sanitary districts heretofore or hereafter created in any county under the provisions of this article, may be merged into a single district by an order entered by the circuit court of such county, or the judge thereof in vacation, upon the petition of not less than fifty qualified voters residing within the boundaries of each of the districts desiring to be so merged, which order shall prescribe the metes and bounds and the name or other designation of the single district created by such merger. From and after the entry of such order, the governing body of such county shall, as to the single districts so created, have all the powers and duties, and be subject to all the conditions and limitations prescribed by § 21-118; and all funds then on hand to the credit of each of the districts so merged shall be merged into a single fund for the use and benefit of the consolidated district, unless otherwise ordered by the court or judge upon the hearing next herein provided for.

Upon the filing of the petition, a hearing shall be had before the court or judge, after notice as provided by § 21-114, which notice shall require all interested parties to appear and show cause, if any they can, (1) why the funds then on hand to the credit of each of the merged districts should not be merged into a single fund for the purpose above mentioned; (2) why a special tax should not be levied on all the property within the limits of the consolidated district, subject to local taxation, sufficient to pay the interest and create a sinking fund for payment of the principal at maturity, of any then outstanding bonds theretofore issued by any one or more of the districts so merged.

Upon the hearing, such order shall be made and entered as to the court or judge may seem equitable and proper, concerning the combination of the funds on hand to the credit of each of the districts so merged, and the levying of a special tax on all the taxable property within the limits of the consolidated district, for the purposes hereinabove mentioned; provided that such order shall preserve and protect the rights of the holders of any such outstanding bonds, whose rights, and interests shall not be limited or affected by any of the provisions of this section.

§ 21-117.1. Abolishing sanitary districts

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article, may be abolished by an order entered by the circuit court of such county, or the judge thereof in vacation, upon the petition of the governing body of the county and of no less than 50 qualified voters residing within the boundaries of the district desired to be abolished, or if the district contains less than 100 qualified voters upon petition of the governing body of the county and fifty percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the court shall fix a day for a hearing on the question of abolishing the sanitary district which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof and the court shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the court or the judge thereof in vacation. At least ten days shall intervene between the completion of the publication and the date set for hearing, and such publication shall be considered complete on the twenty-first day after the first publication and no such district shall be abolished until the notice has been given and the hearing had.

Any interested parties may appear and be heard on any matters pertaining to the subject of the hearing.

Upon the hearing, such order shall be made and entered as to the court or judge may seem equitable and proper, concerning the abolition of the district and as to the funds on hand to the credit of the district.

Provided, however, that no such order shall be made abolishing the sanitary district unless any bonds of the sanitary district which have theretofore been issued have been redeemed and the purposes for which the sanitary district was created have been completed, or, unless all obligations and functions of the sanitary district have been taken over by the county as a whole, or, unless the purposes for which the sanitary district was created are impractical or impossible of accomplishment and no obligations have been incurred by said sanitary district.

§ 21-118. Powers and duties of governing body

After the entry of such order creating a sanitary district in such county, the governing body thereof shall have the following powers and duties, subject to the conditions and limitations hereinafter prescribed:

1. To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary districts.

2. To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district and to acquire by gift, condemnation, purchase, lease, or otherwise, rights, title, interest, or easements therefor in and to real estate in such district; and to sell, lease as lessor, transfer or dispose of any part of any such property, real, personal or mixed, so acquired in such manner and upon such terms as the governing body of the district may determine to be in the best interests of the district; provided a public hearing is first held with respect to such disposition at which inhabitants of the district shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing and a brief description of the property to be disposed shall be published in a newspaper of general circulation in the district. Such public hearing may be adjourned from time to time.

3. To contract with any person, firm, corporation or municipality to construct, establish, maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district.

4. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court or the judge thereof in vacation within 10 days from action by the governing body.

5. To fix and prescribe or change the rates of charge for the use of any such system or systems after a public hearing upon notice as provided in § 21-118.4 (d), and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission.

6. To levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay, either in whole or in part, the expenses and charges incident to constructing, maintaining and operating water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary district. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.

7. To employ and fix the compensation of any technical, clerical or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems and sidewalks.

8. To negotiate and contract with any person, firm, corporation or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district.

9. The governing body shall have the same power and authority for the abatement of nuisances in such sanitary district as is vested by law in councils of cities and towns for the abatement of nuisances therein, and it shall be the duty of the governing body to exercise such power when any such nuisance shall be shown to exist.

10. Proceedings for the acquisition of rights, title, interest or easements in and to real estate, by such sanitary districts in all cases in which they now have or may hereafter be given the right of eminent domain, may be instituted and conducted in the name of such sanitary district. If the property proposed to be condemned is:

> a. For a waterworks system, the procedure shall be in the manner and under the restrictions prescribed by Chapter 19.1 (§ 15.2-1908 et seq.) of Title 15.2, and by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1;
>
> b. For the purpose of constructing water or sewer lines, the proceedings shall be instituted and conducted in accordance with the procedures prescribed either by Chapter 2 of Title 25.1 or in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1; or
>
> c. For the purpose of constructing water and sewage treatment plants and facilities and improvements reasonably necessary to the construction and operation thereof, the proceedings shall be instituted and conducted in accordance with the procedures provided for the condemnation of land in Chapter 3 of Title 25.1.

11. To appoint, employ and compensate out of the funds of the district as many persons as special policemen as may be deemed necessary to maintain order and enforce the criminal and police laws of the Commonwealth and of the county within such district. Such special policemen shall have, within such district and within one-half mile thereof, all of the powers vested in policemen appointed under the provisions of Article 1 (§ 15.2-1700 et seq.) of Chapter 17 of Title 15.2.

(1930, p. 1002; 1934, p. 494; 1936, p. 463; 1938, p. 19; Michie Code 1942, § 1560a; 1952, c. 113; 1956, c. 588; 1960, c. 36; 1962, c. 497; 1976, cc. 585, 684; 1977, cc. 276, 516; 1981, c. 564; 2002, c. 194; 2003, c. 940.)

§ 21-118.1. Authority to acquire property from United States or any agency thereof

Notwithstanding the provisions of any other law, the governing body of any sanitary district may, by ordinance or resolution, authorize the acquisition and purchase from the United States, or any agency thereof, whether now existing or hereafter created, of any equipment, supplies, materials, or other property, real or personal, in such manner as such governing body may determine.

It is the purpose of this section to enable sanitary districts to secure from time to time promptly the benefits of acquisitions and purchases as authorized by this section, to aid them in securing advantageous purchases, to prevent unemployment and thereby to assist in promotion of public welfare and to these ends such districts shall have power to do all things necessary or convenient to carry out such purpose, in addition to the expressed power conferred by this section. This section is remedial in nature and the powers hereby granted shall be liberally construed.

§ 21-118.2. Certain counties authorized to use sanitary district funds for certain purposes

The board of supervisors of any county operating sanitary districts under the provisions of this chapter as amended or under the provisions of an act or acts continued in effect by § 21-120, may use sanitary district funds for police protection and for construction and operation of community houses within the district, provided that this section shall apply only to Chesterfield County and Henrico County. Action hereunder shall be subject to the rights of the holders of any bonds issued by such district.

§ 21-118.3. Levy and expenditure of taxes in certain counties; validation of expenditures
NA

§ 21-118.4. Certain additional powers of governing body
Notwithstanding any other provisions of law, when an order has been entered creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors," shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to and operate motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

> (a1) To acquire, construct, maintain and operate, or to contract for such acquisition, construction, maintenance and operation, within such sanitary district, such community buildings, community centers, other recreational facilities and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease or otherwise, and to maintain and operate any such motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to and operate any such motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority or the federal government or any agency thereof for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a fifty-dollar fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least ten days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until ten days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be

published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed ten percent of the amount due or ten dollars, whichever is the greater, and interest on outstanding bills at the rate provided for in § 58.1-3918, after a public hearing upon notice as provided in subdivision (d) and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. The board of supervisors may provide for the exemption from, deferral of or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least sixty-five years of age or persons permanently and totally disabled as defined in § 58.1-3217. Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria as provided by § 58.1-3211. And to enable the board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers, person or persons as it may determine, and the officer or officers, person or persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within thirty days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such thirty-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within thirty days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees or charges with interest, shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such thirty-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of five dollars per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of two dollars, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of one dollar by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia, to construct or contract to construct within such sanitary district, at the request of the school

board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within sixty days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.2-5000; and shall be repaid not later than either December 15 of the year in which they are borrowed or fifteen days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of ninety days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No board shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

§ 21-119. Sanitary districts are special taxing districts; nature of improvements; jurisdiction of governing ...

A. Each sanitary district created or purported to be created by an order of the circuit court of any county of the Commonwealth, or a judge thereof, heretofore or hereafter made and entered pursuant to any general law of the Commonwealth, is hereby determined to be and is hereby made, from and after the date of such creation or purported creation, a special taxing district for the purposes for which created; and any improvements heretofore or hereafter made by or for any such district are hereby determined to be general

tax improvements and of general benefit to all of the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the property within the sanitary district.

B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in this chapter shall in any wise affect the authority, power and jurisdiction of the respective county governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, judges, magistrates or any other county, district or state officer over the area embraced in any such district, nor shall the same restrict or affect in any way any county, or the governing body of any county, from imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar benefits, in any such district, taxes or assessments for local public improvements as permitted by the Constitution and by other statutes of the Commonwealth.

C. Notwithstanding subsections A and B of this section, the board of supervisors of Buckingham County, Nottoway County, or Westmoreland County may impose on, and collect from, landowners abutting a street being improved by the sanitary district a user fee for such service. Such fee may be enforced as provided in § 21-118.4.

Appendix H: Service District (§ 15.2-2400)

§ 15.2-2400. Creation of service districts.

Any locality may by ordinance, or any two or more localities may by concurrent ordinances, create service districts within the locality or localities in accordance with the provisions of this article. Service districts may be created to provide additional, more complete or more timely services of government than are desired in the locality or localities as a whole.

Any locality seeking to create a service district shall have a public hearing prior to the creation of the service district. Notice of such hearing shall be published once a week for three consecutive weeks in a newspaper of general circulation within the locality, and the hearing shall be held no sooner than ten days after the date the second notice appears in the newspaper.

§ 15.2-2402. Description of proposed service district.

Any ordinance or petition to create a service district shall:

1. Set forth the name and describe the boundaries of the proposed district and specify any areas within the district that are to be excluded;

2. Describe the purposes of the district and the facilities and services proposed within the district;

3. Describe a proposed plan for providing such facilities and services within the district; and

4. Describe the benefits which can be expected from the provision of such facilities and services within the district.

§ 15.2-2403. Powers of service districts.

After adoption of an ordinance or ordinances or the entry of an order creating a service district, the governing body or bodies shall have the following powers with respect to the service districts:

1. To construct, maintain, and operate such facilities and equipment as may be necessary or desirable to provide additional, more complete, or more timely governmental services within a service district, including but not limited to water supply, dams, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks; economic development services; promotion of business and retail development services; beautification and landscaping; beach and shoreline management and restoration; dredging of creeks and rivers to maintain existing uses; control of infestations of insects that may carry a disease that is dangerous to humans, gypsy moths, cankerworms or other pests identified by the Commissioner of the Department of Agriculture and Consumer Services in accordance with the Virginia Pest Law (§ 3.2-700 et seq.); public parking; extra security, street cleaning, snow removal and refuse collection services; sponsorship and promotion of recreational and cultural activities; upon petition of over 50 percent of the property owners who own not less than 50 percent of the property to be served, construction, maintenance, and general upkeep of streets and roads; construction, maintenance, and general upkeep of streets and roads through creation of urban transportation service districts pursuant to § 15.2-2403.1; and other services, events, or activities that will enhance the public use and enjoyment of and the public safety, public convenience, and public well-being within a service

district. Such services, events, or activities shall not be undertaken for the sole or dominant benefit of any particular individual, business or other private entity. Any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department.

2. Notwithstanding the provisions of § 33.1-69, to provide, in addition to services authorized by subdivision 1, transportation and transportation services within a service district, regardless of whether the facilities subject to the services are or will be operated or maintained by the Virginia Department of Transportation, including, but not limited to: public transportation systems serving the district; transportation management services; road construction, including any new roads or improvements to existing roads; rehabilitation and replacement of existing transportation facilities or systems; and sound walls or sound barriers. However, any transportation service, system, facility, roadway, or roadway appurtenance established under this subdivision that will be operated or maintained by the Virginia Department of Transportation shall be established with the involvement of the governing body of the locality and meet the appropriate requirements of the Department. The proceeds from any annual tax or portion thereof collected for road construction pursuant to subdivision 6 may be accumulated and set aside for such reasonable period of time as is necessary to finance such construction; however, the governing body or bodies shall make available an annual disclosure statement, which shall contain the amount of any such proceeds accumulated and set aside to finance such road construction.

3. To acquire in accordance with § 15.2-1800, any such facilities and equipment and rights, title, interest or easements therefor in and to real estate in such district and maintain and operate the same as may be necessary and desirable to provide the governmental services authorized by subdivisions 1 and 2.

4. To contract with any person, municipality or state agency to provide the governmental services authorized by subdivisions 1 and 2 and to construct, establish, maintain, and operate any such facilities and equipment as may be necessary and desirable in connection therewith.

5. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court within 10 days from action by the governing body.

6. To levy and collect an annual tax upon any property in such service district subject to local taxation to pay, either in whole or in part, the expenses and charges for providing the governmental services authorized by subdivisions 1, 2 and 11 and for constructing, maintaining, and operating such facilities and equipment as may be necessary and desirable in connection therewith; however, such annual tax shall not be levied for or used to pay for schools, police, or general government services not authorized by this section, and the proceeds from such annual tax shall be so segregated as to enable the same to be expended in the district in which raised. Such tax may be levied on taxable real estate zoned for residential, commercial, industrial or other uses, or any combination of such use classification, within the geographic boundaries of the service district; however, such tax shall only be levied upon the specific classification of real estate that the local governing body deems the provided governmental services to benefit. In addition to the tax on property authorized herein, in the City of Virginia Beach, the city council shall have the power to impose a tax on the base transient room rentals, excluding hotels, motels, and travel campgrounds, within such service district at a rate or percentage not higher than five percent which is in addition to any other transient room rental tax imposed by the city. The proceeds from such additional transient room rental tax shall be deposited in a special fund to be used only for the purpose of beach and shoreline management and restoration. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the service district, notwithstanding any special use value assessment of property within the service district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent. In addition to the taxes and assessments described herein, a

locality creating a service district may contribute from its general fund any amount of funds it deems appropriate to pay for the governmental services authorized by subdivisions 1, 2, and 11 of this section.

7. To accept the allocation, contribution or funds of, or to reimburse from, any available source, including, but not limited to, any person, authority, transportation district, locality, or state or federal agency for either the whole or any part of the costs, expenses and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, expansion, and the operation or maintenance of any facilities and services in the district.

8. To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment may be necessary or desirable to provide the governmental services authorized by subdivisions 1, 2 and 11 or for the construction, operation, or maintenance of any such facilities and equipment as may be necessary or desirable in connection therewith.

9. To create and terminate a development board or other body to which shall be granted and assigned such powers and responsibilities with respect to a special service district as are delegated to it by ordinance adopted by the governing body of such locality or localities. Any such board or alternative body created shall be responsible for control and management of funds appropriated for its use by the governing body or bodies, and such funds may be used to employ or contract with, on such terms and conditions as the board or other body shall determine, persons, municipal or other governmental entities or such other entities as the development board or alternative body deems necessary to accomplish the purposes for which the development board or alternative body has been created. If the district was created by court order, the ordinance creating the development board or alternative body may provide that the members appointed to the board or alternative body shall consist of a majority of the landowners who petitioned for the creation of the district, or their designees or nominees.

10. To negotiate and contract with any person or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the district.

11. To acquire by purchase, gift, devise, bequest, grant, or otherwise title to or any interests or rights of not less than five years' duration in real property that will provide a means for the preservation or provision of open-space land as provided for in the Open-Space Land Act (§ 10.1-1700 et seq.). Notwithstanding the provisions of subdivision 3, the governing body shall not use the power of condemnation to acquire any interest in land for the purposes of this subdivision.

12. To contract with any state agency or state or local authority for services within the power of the agency or authority related to the financing, construction, or operation of the facilities and services to be provided within the district; however, nothing in this subdivision shall authorize a locality to obligate its general tax revenues, or to pledge its full faith and credit.

13. In the Town of Front Royal, to construct, maintain, and operate facilities, equipment, and programs as may be necessary or desirable to control, eradicate, and prevent the infestation of rats and removal of skunks and the conditions that harbor them.

14. In Accomack County, to construct, maintain, and operate in the Wallops Research Park, consistent with all applicable federal, state, and local laws and regulations, such infrastructure, services, or amenities as may be necessary or desirable to provide access for aerospace-related economic development to the NASA/Wallops Flight Facility runway and related facilities, and to create and terminate a Wallops Research Park Partnership body, which shall consist of one representative of the NASA/Wallops Research Flight Facility, one representative of the U.S. Navy Surface Combat Systems Center, one representative of the Marine Science Consortium, one representative of the Accomack County

government, the Chancellor of the Virginia Community College System, and one representative of the Virginia Economic Development Partnership. The Partnership body shall have all of the powers enumerated in § 15.2-2403. Federal appointees to the Partnership body shall maintain their absolute duties of loyalty to the U.S. government.

Appendix I: Virginia Water and Waste Authorities Act

§ 15.2-5102. One or more localities may create authority.

A. The governing body of a locality may by ordinance or resolution, or the governing bodies of two or more localities may by concurrent ordinances or resolutions or by agreement, create a water authority, a sewer authority, a sewage disposal authority, a stormwater control authority, a refuse collection and disposal authority, or any combination or parts thereof. The name of the authority shall contain the word "authority." The authority shall be a public body politic and corporate and a political subdivision of the Commonwealth. The ordinance, resolution or agreement creating the authority shall not be adopted or approved until a public hearing has been held on the question of its adoption or approval, and after approval at a referendum if one has been ordered pursuant to this chapter.

B. Any authority, or any subsidiary thereof, organized pursuant to this section to operate a refuse collection and disposal system that, pursuant to statute, is specifically authorized to include in the system (i) facilities for processing solid waste as a fuel and (ii) facilities for generating steam and electricity for sale, shall not be subject to regulation under the Utilities Facilities Act (§ 56-265.1 et seq.), provided that sales of electricity generated at such facilities are made only to a federal agency whose primary responsibility is national defense and the energy is delivered directly from the generator to the customer's facilities or to a public utility.

§ 15.2-5102.1. (For contingent expiration, see Editor's note) Hampton Roads area refuse collection and disposal system authority.

Any authority, or any subsidiary thereof, organized pursuant to § 15.2-5102 to operate a refuse collection and disposal system that has among its members the Cities of Norfolk, Virginia Beach, Portsmouth, Chesapeake, and Franklin, and the Counties of Isle of Wight, Southampton, and Suffolk, shall, notwithstanding any other law to the contrary, comply with the following requirements:

1. Each locality that is a member of the authority shall be entitled to nominate individuals to fill one position on the Board of Directors (the Board) by submitting a list of three potential directors, each of whom shall possess general business knowledge and shall not be an elected official, to the Governor. The Governor shall then select and appoint one director from each of the lists of nominees prepared by the member localities. In addition, each member locality shall be authorized to directly appoint, upon a majority vote of the governing body of the member locality, one ex officio member of the Board who shall be an employee of the member locality. The members of the Board shall be appointed for terms of four years each. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Vacancies shall be filled in the same manner as the original appointments. No member shall serve for more than two consecutive four-year terms, except that any member appointed to the unexpired term of another shall be eligible to serve two consecutive four-year terms.

2. The authority shall develop and maintain an overall strategic plan that shall cover a period of at least five years forward from the year in which it is submitted and approved by the Board. The plans shall be reviewed annually to determine whether amendments are needed. Any such amendments shall be submitted to the board of directors for approval.

3. The authority's core purpose shall be defined as "management of the safe and environmentally sound disposal of regional waste." The authority shall devote its time and effort to activities associated with its core purpose. A vote of a majority of the Board shall be required prior to undertaking any activities not associated with the authority's core purpose.

4. The authority shall develop and maintain a strategic operating plan identifying all elements of its core business units and core purpose, how each business and administrative unit will support the overall strategic plan, and how the authority will achieve its stated mission and core purpose. The strategic operating plan shall be subject to review and approval of the Board on an annual basis.

5. The authority shall consider outsourcing any or all functions that may result in reduced costs to the authority, and the authority shall annually issue requests for proposals that potentially reduce the costs of any of its programs. In addition, the authority shall accept and review any proposals under the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) that potentially reduce the costs of any of the authority's programs.

6. The authority shall evaluate its landfill capacity annually, taking into consideration and projecting future changes in the quantity of waste disposed of in its landfill, or landfills reasonably situated or contractually obligated to accept its waste.

7. The authority shall keep records of its costs, revenue, debts, and capital expenses by fiscal year for each program. The authority shall also keep records of costs for each individual capital project.

8. The authority shall maintain a detailed financing plan that shall include a plan for the retirement of all debt and a plan for the funding of all planned capital projects. The plan for the funding of all planned capital projects shall specify the amount of debt the authority will issue in furtherance of the projects and the debt repayment plan for any new debt created by the capital projects, including the revenue source that will be used to repay the debt. The detailed financing plan shall be updated and approved annually by the Board and reviewed and certified annually by an external certified public accountant.

9. Prior to issuance of new debt, the Board shall perform a due diligence investigation of the appropriateness of issuing the debt, including an analysis of the costs of repaying the debt. Such analysis shall be certified by an external certified public accountant, reviewed by the Board, and approved by a vote of a minimum of 75 percent of the Board. The issuance of new debt shall require a vote of a minimum of 75 percent of the Board of Directors of the authority. The authority shall not issue long-term bond indebtedness to fund operational expenses. The provisions of this subdivision shall not apply to the issuance of new debt issued for the purpose of refunding or refinancing debt incurred by the authority prior to September 30, 2009.

10. In the interest of open and transparent government, the authority shall adhere strictly to the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.).

11. The executive director of the authority shall not be permitted to execute or commit the authority to any contract, memorandum of agreement or memorandum of understanding without an informed vote of approval by the Board. This subdivision shall not apply in the case of (i) contracts for the purchase of goods and services for an aggregate sum of less than $30,000, which are subject to the Virginia Procurement Act (Va. Code § 2.2-4300 et seq.) but exempted from competitive negotiation or competitive sealed bidding by a duly adopted policy of the Board and (ii) sole source and emergency procurements made pursuant to subsections E and F of § 2.2-4303.

§ 15.2-5103. Ordinance, agreement or resolution creating authority to include articles of incorporation.

A. The ordinance, agreement or resolution creating an authority shall include articles of incorporation which shall set forth:

1. The name of the authority and address of its principal office.

2. The name of each participating locality and the names, addresses and terms of office of the first members of the board of the authority.

3. The purposes for which the authority is being created and, to the extent that the governing body of the locality determines to be practicable, preliminary estimates of capital costs, proposals for any specific

projects to be undertaken by the authority, and preliminary estimates of initial rates for services of such projects as certified by responsible engineers.

4. If there is more than one participating locality, the number of board members who shall exercise the powers of the authority and the number from each participating locality.

B. Any such ordinance, agreement or resolution that does not set forth the information required in subdivision 3 of subsection A regarding capital cost estimates, project proposals and project service rate estimates shall set forth a finding by the governing body that inclusion of such information is impracticable.

C. Any ordinance, agreement or resolution adopted pursuant to §§ 15.2-5152 through 15.2-5157 shall provide that any bonds issued by the community development authority shall be a debt of the authority, not the local government. Unless otherwise provided in the ordinance which establishes the authority, the local government shall not retire any part of the bonds or pay any debt service of an authority out of revenues or funds derived from sources other than those set out in §15.2-5158, except that, where the authority finances improvements not contemplated by the original ordinance, the local government may, by ordinance or resolution, make such provisions for repayment as are otherwise permitted under general law. This subsection shall have no effect upon authorities formed pursuant to § 15.2-5102.

§ 15.2-5104. Advertisement of ordinance, agreement or resolution and notice of hearing.

The governing body of each participating locality shall cause to be advertised at least one time in a newspaper of general circulation in such locality a copy of the ordinance, agreement or resolution creating an authority, or a descriptive summary of the ordinance, agreement or resolution and a reference to the place within the locality where a copy of the ordinance, agreement or resolution can be obtained, and notice of the day, not less than thirty days after publication of the advertisement, on which a public hearing will be held on the ordinance, agreement or resolution.

§ 15.2-5105. Hearing; referendum.

If at the hearing, in the judgment of the governing body of the participating locality, substantial opposition is heard, the governing body may at its discretion petition the circuit court to order a referendum on the question of adopting or approving the ordinance, agreement or resolution. The provisions of § 24.2-684 shall govern the order for a referendum. When two or more localities are participating in the formation of such authority, the referendum, if ordered, shall be held on the same date in all participating localities. If ten percent of the qualified voters in a locality file a petition with the governing body at the hearing calling for a referendum, such governing body shall petition the circuit court to order a referendum in that locality as provided in this section.

§ 15.2-5106. Voters' petition requesting agreement and referendum.

The qualified voters of any locality whose governing body has not acted to create an authority under § 15.2-5102 may file with the governing body of such locality a petition asking the governing body to effect an agreement in accordance with §15.2-5102 with the localities named in the petition. Such petition shall be signed by at least ten percent of the number of the locality's voters who voted in the last presidential election and in no case be signed by fewer than fifty voters. The petition shall ask the governing body to petition the circuit court for a referendum on the question of the creation of the authority.

If the governing body is unable, or for any reason fails, to perfect such agreement within three months of the day the petition was filed with such governing body, then the circuit court for the locality shall appoint a committee of five representative citizens of the locality to act for and in lieu of the governing

body in perfecting the agreement and in petitioning for a referendum. The agreement shall not take effect unless approved in the referendum by a majority of the voters voting in the referendum.

§ 15.2-5114. Powers of authority.

Each authority is an instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each authority may:

1. Exist for a term of 50 years as a corporation, and for such further period or periods as may from time to time be provided by appropriate resolutions of the political subdivisions which are members of the authority; however, the term of an authority shall not be extended beyond a date 50 years from the date of the adoption of such resolutions;

2. Adopt, amend or repeal bylaws, rules and regulations, not inconsistent with this chapter or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

3. Adopt an official seal and alter the same at pleasure;

4. Maintain an office at such place or places as it may designate;

5. Sue and be sued;

6. Acquire, purchase, lease as lessee, construct, reconstruct, improve, extend, operate and maintain any system or any combination of systems within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; acquire by gift, purchase or the exercise of the right of eminent domain lands or rights in land or water rights in connection therewith, within, outside, or partly within and partly outside one or more of the localities which created the authority, or which after February 27, 1962, joined such authority; and sell, lease as lessor, transfer or dispose of all or any part of any property, real, personal or mixed, or interest therein, acquired by it; however, in the exercise of the right of eminent domain the provisions of § 25.1-102 shall apply. In addition, the authority in any county or city to which §§ 15.2-1906 and 15.2-2146 are applicable shall have the same power of eminent domain and shall follow the same procedure provided in §§ 15.2-1906 and 15.2-2146. No property or any interest or estate owned by any political subdivision shall be acquired by an authority by the exercise of the power of eminent domain without the consent of the governing body of such political subdivision. Except as otherwise provided in this section, each authority is hereby vested with the same authority to exercise the power of eminent domain as is set out in Chapter 2 (§25.1-200 et seq.) or Chapter 3 (§ 25.1-300 et seq.) of Title 25.1. In acquiring personal property or any interest, right, or estate therein by purchase, lease as lessee, or installment purchase contract, an authority may grant security interests in such personal property or any interest, right, or estate therein;

7. Issue revenue bonds of the authority, such bonds to be payable solely from revenues to pay all or a part of the cost of a system;

8. Combine any systems as a single system for the purpose of operation and financing;

9. Borrow at such rates of interest as authorized by the general law for authorities and as the authority may determine and issue its notes, bonds or other obligations therefor. Any political subdivision that is a member of an authority may lend, advance or give money to such authority;

10. Fix, charge and collect rates, fees and charges for the use of, or for the services furnished by, or for the benefit derived from, any facilities or systems owned, operated or financed by the authority. Such rates, fees, rents and charges shall be charged to and collected by such persons and in such manner as the

authority may determine from (i) any person contracting for any such services and/or (ii) the owners or tenants who own, use or occupy any real estate or improvements that are served by, or benefit from, any such facilities or systems, and, if authorized by the authority, customers of facilities within a community development authority district. Water and sewer connection fees established by any authority shall be fair and reasonable, and each authority may establish and offer rate incentives designed to encourage the use of green roofs. If established, the incentives shall be based on the percentage of stormwater runoff reduction the green roof provides. Such fees and incentives shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders that are in conflict with any of the foregoing provisions;

11. Enter into contracts with the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person. Such contracts may provide for or relate to the furnishing of services and facilities of any system of the authority or in connection with the services and facilities rendered by any like system owned or controlled by the federal government, the Commonwealth, the District of Columbia or any adjoining state or any agency or instrumentality thereof, any unit or any person, and may include contracts providing for or relating to the right of an authority, created for such purpose, to receive and use and dispose of all or any portion of the refuse generated or collected by or within the jurisdiction or under the control of any one or more of them. In the implementation of any such contract, an authority may exercise the powers set forth in §§ 15.2-927 and 15.2-928. The power granted authorities under this chapter to enter into contracts with private entities includes the authority to enter into public-private partnerships for the establishment and operation of systems, including the authority to contract for, and contract to provide, meter reading, billing and collections, leak detection, meter replacement and any related customer service functions;

12. Contract with the federal government, the Commonwealth, the District of Columbia, any adjoining state, any person, any locality or any public authority or unit thereof, on such terms as the authority deems proper, for the construction, operation or use of any project which is located partly or wholly outside the Commonwealth;

13. Enter upon, use, occupy, and dig up any street, road, highway or private or public lands in connection with the acquisition, construction or improvement, maintenance or operation of a system, or streetlight system in King George County, subject, however, to such reasonable local police regulation as may be established by the governing body of any unit having jurisdiction;

14. Contract with any person, political subdivision, federal agency, or any public authority or unit, on such terms as the authority deems proper, for the purpose of acting as a billing and collecting agent for rates, fees, rents or charges imposed by any such authority;

15. Install, own and lease pipe or conduit for the purpose of carrying fiber optic cable, provided that such pipe or conduit and the rights-of-way in which they are contained are made available on a nondiscriminatory, first-come, first-served basis to retail providers of broadband and other telecommunications services unless the facilities have insufficient capacity for such access and additional capacity cannot reasonably be added to the facilities; and

16. Create, acquire, purchase, own, maintain, use, license, and sell intellectual property rights, including any patent, trademark, or copyright, relating to the business of the authority.

§ 15.2-5137. Water and sewer connections; exceptions.

A. Upon or after the acquisition or construction of any water system or sewer system under the provisions of this chapter, the owner, tenant, or occupant of each lot or parcel of land (i) which abuts a street or other public right of way which contains, or is adjacent to an easement containing, a water main or a water system, or a sanitary sewer which is a part of or which is or may be served by such sewer system and (ii)

upon which a building has been constructed for residential, commercial or industrial use, shall, if so required by the rules and regulations or a resolution of the authority, with concurrence of the locality in which the land is located, connect the building with the water main or sanitary sewer, and shall cease to use any other source of water supply for domestic use or any other method for the disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations adopted by the authority, which may provide for a reasonable charge for making such a connection. A private water company which purchases water from a regional authority for sale or delivery to or within a municipality may impose a charge for connection to the water company's system in the same manner, and subject to the same restrictions, as an authority may impose for connection to its water system, subject to the approval of the State Corporation Commission.

B. Notwithstanding any other provision of this chapter, those persons having a domestic supply or source of potable water shall not be required to discontinue the use of such water. However, persons not served by a water supply system, as defined in § 15.2-2149, producing potable water meeting the standards established by the Virginia Department of Health may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges. In York County and James City County, the monthly nonuser fee may be as provided by general law or not more than 85 percent of the minimum monthly user charge imposed by the authority, whichever is greater.

C. Notwithstanding any other provision of this chapter, those persons having a private septic system or domestic sewage system meeting applicable standards established by the Virginia Department of Health shall not be required under this chapter to discontinue the use of such system. However, such persons may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge, which charge shall not be more than that proportion of the minimum monthly user charge, imposed by the authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges.

D. Persons who have obtained exemption from or deferral of taxation pursuant to an ordinance authorized by § 58.1-3210may be exempted or deferred by the authority from paying any charges and fees authorized by subsection C, to the same extent as the exemption from or deferral of taxation pursuant to such ordinance.

E. Water and sewer connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

Appendix J: Enabling Authority for Mandatory Connection to water and sewage systems

§ 15.2-2110. Mandatory connection to water and sewage systems in certain counties.

A. Amelia, Botetourt, Campbell, Cumberland, Franklin, Halifax, and Nelson Counties may require connection to their water and sewage systems by owners of property that may be served by such systems; however, those persons having a domestic supply or source of potable water and a system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious, and dangerous diseases shall not be required to discontinue use of the same, but may be required to pay a connection fee, a front footage fee, and a monthly nonuser service charge that shall not be more than that proportion of a minimum monthly user charge as debt service compares to the total operating and debt service costs.

B. Bland County, Goochland County, Rockingham County and Wythe County may require connection to their water and sewer systems by owners of property that can be served by the systems if the property, at the time of installation of such public system, or at a future time, does not have a then-existing, correctable, or replaceable domestic supply or source of potable water and a then-existing, correctable, or replaceable system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious and dangerous diseases. Such counties may not charge a fee for connection to its water and sewer systems until such time as connection is required. However, Bland County and Wythe County, in assuming the obligations of a public service authority, may assume such obligations under the same terms and conditions as applicable to the public service authority.

The provisions of this subsection as they apply to Goochland County shall become effective on July 1, 2002.

C. Buckingham County may require connection to its water and sewer systems by owners of property that can be served by the systems if the property, at the time of installation of such public system, or at a future time, does not have a then-existing or correctable domestic supply or source of potable water and a then-existing or correctable system for the disposal of sewage adequate to prevent the contraction or spread of infectious, contagious and dangerous diseases. Such county may not charge a fee for connection to its water and sewer systems until such time as connection is required.

Appendix K: Attorney General Opinion

COMMONWEALTH of VIRGINIA

Office of the Attorney General

Kenneth T. Cuccinelli, II
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

March 9, 2012

The Honorable L. Scott Lingamfelter
Member, House of Delegates
5420 Lomax Way
Woodbridge, Virginia 22193

Dear Delegate Lingamfelter:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether, pursuant to § 15.2-2157, a locality may adopt requirements and standards other than maintenance requirements for alternative onsite sewage systems that are in addition to or more stringent than those set forth by the Board of Health in the Sewage Handling and Disposal Regulations and the Emergency Regulations for Alternative Onsite Sewage Systems.

Response

It is my opinion that a Virginia locality can adopt standards and requirements for alternative onsite sewage systems that are in addition to or more stringent than those promulgated in regulations by the Board of Health, provided such standards or regulations do not relate to maintenance issues.

Applicable Law and Discussion

Alternative onsite sewage systems, as well as conventional systems, are regulated by the Virginia Department of Health. Section 32.1-163 defines a conventional onsite sewage system as, "a treatment works consisting of one or more septic tanks with gravity, pumped, or siphoned conveyance to a gravity distributed subsurface drainfield."[1] An alternative onsite sewage system is defined as, "a treatment works that is not a conventional onsite sewage system and does not result in a point source discharge."[2] Alternative systems are often utilized in circumstances where soils are unsuitable for conventional septic systems, there are too many conventional septic systems in one area, or the systems are too close to groundwater or surface waters.[3]

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[1] VA. CODE ANN. § 32.1-163 (2011).

[2] *Id.* "'Treatment works' means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and appurtenances, septic tanks, and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment." Section 32.1-163.

[3] For further discussion of the mechanics of an alternative onsite sewage system, *see* 2010 Op. Va. Att'y Gen. 53 and technical documents cited therein.

Pursuant to § 15.2-2157(A), a locality "may require the installation, maintenance and operation of, regulate and inspect onsite sewage systems" in order to protect public health.[4] Further, while a county or town also has the general authority to deny applications for onsite sewage systems when the locality has adopted a master plan for sewers,[5] § 15.2-2157(C) specifically prohibits any locality from otherwise banning, "[w]hen sewers or sewerage disposal facilities are not available, . . . the use of alternative onsite sewage systems that have been approved by the Virginia Department of Health . . . ."[6] Additionally, subsection (D) provides that localities "shall not require maintenance standards and requirements for alternative onsite sewage systems that exceed those allowed under or established by the State Board of Health pursuant to § 32.1-164."[7]

In your opinion request, you specifically refer to a county ordinance that requires a bond, letter of credit or cash escrow to be paid by the owner prior to the issuance of an operation permit for an alternative onsite sewage system, in order to provide for the maintenance, repair or replacement of the system. The Department of Health's regulations applicable to maintenance of onsite sewage systems do not include a provision for a requirement of posting such a bond. You therefore ask whether a locality can adopt such an ordinance, in light of the restriction set forth in § 15.2-2157(D). The example you provide clearly involves a maintenance requirement, so based on the express prohibition against a locality's adoption of maintenance standards and requirements exceeding those established by the Board of Health, I conclude that the locality is precluded from enforcing such a bond requirement.

Your inquiry, nonetheless, is broader in scope. You ask whether the restriction on local regulation applies solely to maintenance standards or whether it also limits a locality's ability to impose additional requirements of any nature. You seek the proper construction of the phrase "maintenance standards and requirements" as used in § 15.2-2157(D).

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[4] *See also, e.g.,* § 15.2-2126 (2008) (requiring notice and public hearing for the establishment or extension of sewer systems to serve three or more connections); § 15.2-2127 (2008) (authorizing localities to disapprove sewage systems if the locality finds for certain reasons that the sewage system is not capable of serving the proposed number of connections); and § 15.2-2128, *infra.*

[5] *See* § 15.2-2128 (2008) ("Notwithstanding any other provision of general law relating to the approval of sewage systems, the governing body of any county or town which has adopted a master plan for a sewage system is authorized to deny an application for a sewage system if such denial appears to it to be in the best interest of the inhabitants of the county or town").

[6] Section 15.2-2157(C).

[7] Section 32.1-164 provides that the regulations of the State Board of Health may include "[s]tandards for the design, construction, installation, modification and operation of sewerage systems" as well as "[p]erformance requirements for nitrogen discharged from alternative onsite sewage systems that protect public health and ground and surface water quality." The Board's Emergency Regulations, which supplement its Sewage Handling and Disposal Regulations, 12 VA. ADMIN. CODE §§ 5-610-20 through 5-610-1170, provide a definition of maintenance and prescribe certain maintenance and performance standards and horizontal setback requirements which must be met by the owner and designer of the sewage system. *See* 12 VA. ADMIN. CODE § 5-613-10 (defining "maintenance" as "performing adjustments to equipment and controls and in-kind replacement of normal wear and tear parts such as light bulbs, fuses, filters, pumps, motors, or other like components. Maintenance includes pumping the tanks or cleaning the building sewer on a periodic basis. Maintenance shall not include replacement of tanks, drainfield piping, distribution boxes, or work requiring a construction permit and an installer"); *see also* 12 VA. ADMIN. CODE § 5-613-200 (providing specific horizontal setback requirements dependent upon system design and site and soil conditions). The Sewage Handling and Disposal Regulations also provide for minimum reserve area requirements for the design of a system. *See* 12 VA. ADMIN. CODE § 5-610-710.

The primary objective in statutory construction is to give effect to the legislature's intent,[8] as manifested through the plain language of the statute.[9] Rules of construction or extrinsic aids are resorted to only when the words of the statute are ambiguous.[10] Words and phrases should be construed according to the rules of grammar and common usage;[11] nonetheless, they must be read in context and not in isolation.[12] Further, statutes are to interpreted *in pari materia*,[13] and interpretations rendering part of an enactment superfluous are unreasonable.[14]

First I note that, generally, absent evidence of a contrary legislative intent, courts construe adjectives that precede more than one noun to modify each of the nouns that immediately follow the adjective.[15] Applying this rule, and because there are no intervening commas or other modifiers and no "or" to indicate that "requirements" is to be treated separately,[16] I conclude that "maintenance" modifies both "standards" and "requirements" so that a locality may impose additional requirements on alternative onsite sewage systems, provided those requirements do not concern the maintenance of such systems.

This construction is bolstered by reading §15.2-2157(D) in conjunction with other provisions relating to onsite systems. Section 15.2-2157(A) expressly authorizes localities to "regulate and inspect onsite sewage systems;" and § 32.1-163.6, in establishing a scheme for the Department of Health's review of permit applications by professional engineers, explicitly provides in subsection H that "[t]his section shall not be construed to prohibit any locality from adopting or enforcing any ordinance duly enacted pursuant to Chapter 21 [] of Title 15.2[,]" which includes § 15.2-2157. Clearly, the General Assembly intended the localities to be able to play a role in the regulation of alternative onsite systems. Reading § 15.2-2157(D) to restrict local governments from imposing *any* requirement in excess of the Department of Health's regulations thus not only controverts the language of the statute, but also strips these other provisions of most of their meaning.

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[8] Conger v. Barrett, 280 Va. 627, 630, 702 S.E.2d 117, 118(2010) (quoting Turner v. Commonwealth, 226 Va. 456, 459, 309 S.E.2d 337, 338 (1983)).

[9] Vaughn, Inc. v. Beck, 262 Va. 673, 677, 554 S.E.2d 88, 90 (2001).

[10] *See* Davis v. County of Fairfax, 282 Va. 23, 28, 710 S.E.2d 466, 468 (2011) ("When the language of a statute is unambiguous, we are bound by the plain meaning of that language") (internal citation omitted).

[11] *See* Hilfiger v. Transamerica Occidental Life Ins. Co., 256 Va. 265, 274, 505 S.E.2d 190, 195 (1998) ("As a general rule, 'proper grammatical effect will be given to the arrangement of words in a sentence of a statute'") (quoting Harris v. Commonwealth, 142 Va. 620, 624, 128 S.E. 578, 579 (1925)).

[12] *See* Herndon v. St. Mary's Hosp., Inc., 266 Va. 472, 476, 587 S.E.2d 567, 569 (2003) ("In ascertaining legislative intent, we will not single out a particular term or phrase in a statute. Instead, we will construe the words and terms at issue in the context of all the language contained in the statute.").

[13] *See* Prillaman v. Commonwealth 199 Va. 401, 405-06, 100 S.E.2d 4, 7-8 (1957).

[14] *See* Epps v. Commonwealth, 59 Va. App. 71, 80, 717 S.E.2d 151, 155 (2011); *see also* Cook v. Commonwealth, 268 Va. 11, 114, 597 S.E.2d 84, 86 (2004).

[15] *See, e.g.*, Washington-Virginia Ry. Co. v. Fisher, 121 Va. 229, 235, 92 S.E.2d 809, 811 (1917) ("In the sentence in which the words 'every county road or highway' are found, 'county' . . . modifies or limits both 'road' and 'highway;' and from their collocation those words are the equivalent of 'county road or county highway.'"); *S & P Consulting Engineers, PLLC v. Baker,* 334 S.W.3d 390, 402 (Tex. App. 2011) (acknowledging, generally, "authority preferring that a single adjective preceding a list of nouns modifies each of the nouns"); Long v. United States, 199 F.2d 717 (4th Cir. 1952) (holding "forcibly" in a statute modified each of the verbs following it); Milner v. Dep't of the Navy, 131 S. Ct. 1259 (2011) (applying, without discussion, "personnel" in the phrase "personnel rules and practices" to both "rules" and "practices").

[16] The use of the comma or the disjunctive "or" indicates items are to be considered alternatively, or as independent. *See, e.g.,* 1990 Op. Va. Att'y Gen. 209, 210; 1997 Op. Va. Att'y Gen. 16, 17; 2008 Op. Va. Att'y Gen. 41.

Furthermore, these provisions were amended in 2009. The restrictions on localities contained in subsections (C) and (D) were added to § 15.2-2157,[17] and § 32.1-163.6 was amended to require treatment works designs permitted under it to conform to certain Board of Health regulations.[18] While the legislature, with its enactment of the these amendments, clearly intended to establish certain statewide minimums and to limit the areas in which a locality could impose its own, different regulations, §§ 15.2-2157(A) and 32.1-163.6(H) remain.[19] Had the legislature wanted to establish a single, statewide set of standards or requirements it could have done so. Instead, the General Assembly chose to retain the provisions granting localities general authority to regulate onsite sewage systems, limiting this authority only in the field of maintenance.[20]

In your letter, you relate that a locality has adopted an ordinance that requires horizontal and vertical setback requirements as well as reserve area requirements that are in excess of those found in the Board of Health's regulations. Such requirements do not pertain to maintenance as defined by the Code. Therefore, provided they do not function so as to in effect ban use of an alternative system where the state regulations would allow for its operation,[21] the locality is free to impose them pursuant to § 15.2-2157(A).

Conclusion

Accordingly, it is my opinion that a Virginia locality can adopt standards and requirements for alternative onsite sewage systems that are in addition to or more stringent than those promulgated in regulations by the Board of Health, provided such standards or regulations do not relate to maintenance issues.

With kindest regards, I am

Very truly yours,

Kenneth T. Cuccinelli, II
Attorney General

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[17] 2009 Va. Acts chs. 786, 846.

[18] 2009 Va. Acts chs. 220, 296.

[19] The General Assembly restricted that broad authority by its 2009 amendments by adding subsections C and D to § 15.2-2157.

[20] *Prillaman*, 199 Va. at 405-06, 100S.E.2d at 7 ("'as a general rule, where legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and to be carried into effect conformably to it, and they should be so construed as to harmonize the general tenor or purport of the system and make the scheme consistent in all its parts and uniform in its operation, unless a different purpose is shown plainly or with irresistible clearness. It will be assumed or presumed, in the absence of words specifically indicating the contrary, that the legislature did not intend to innovate on, unsettle, disregard, alter or violate a general statute or system of statutory provisions the entire subject matter of which is not directly or necessarily involved in the act.'") (quoting 50 Am. Jur., Statutes, § 349 at 345-47).

[21] *See* 2010 Op. Va. Att'y Gen. 53.

Appendix L: Bedford County Public Service Authority Operating Policy Manual

MANDATORY CONNECTION

Section 1. PURPOSE

In order to meet bond covenants, to ensure that debt service can be covered, and to provide revenue for repair and replacement funding, the Bedford County Public Service Authority ("Authority") shall utilize the rights granted to the Authority by the State of Virginia and by Bedford County. The applicable Code of Virginia is listed herein.

Section 2. POLICY

A. The owner, tenant, or occupant of each lot or parcel of land where any new residential, commercial, or industrial construction abuts upon or adjoins a public or private street or other public way or easement containing a waterline and/or a sewer line shall be compelled to connect to said utility and pay all appropriate fees.

B. Exemptions for Private Facilities: Parcels subdivided from parent tracts are not subject to the exemptions contained herein, unless the subdivision a) contains no internal road right of ways, b) has internal road right of way(s) with a width of twenty feet (20') or less, and c) does not include the construction of public roads.
   1. Existing sources and disposals:
      a. Water: When new waterlines are installed by the Authority, all adjacent properties that have a proper and adequate existing private water source are not required to connect to the Authority's water system, nor will the property owner, tenant, or occupant be required to pay any connection or user fees. If that private source should fail, the property must then be connected to the Authority's water system and cannot develop or utilize an alternate source.
      b. Sewer: When new sewer lines are installed by the Authority, all properties that have a proper and adequate method for private sewage disposal will not be required to connect to the Authority's sewer system, nor will the property owner, tenant, or occupant be required to pay any connection or user fees. Should those private sewer facilities fail, the property must then be connected to the Authority's sewer system and an alternative method for disposal cannot be developed or utilized.
   2. Proposed sources and disposals: All exemptions related to developing new water sources or new sewer disposal facilities under the terms of this policy shall be approved by the Executive Director of the Authority and the Water and Sewer Committee from the Board of Directors. Exemptions that may be approved include, but are not limited to, the following:
      a. Water:
         i. A private water source may be developed for agricultural purposes on property that is adjacent to the Authority's water system.
         ii. Properties where the nearest structure requiring service is greater than five hundred feet (500') from the point where the water meter would be located by the Authority are exempt from mandatory connection to the water system.
      b. Sewer:
         i. Properties where the nearest structure requiring sewer service is greater than five hundred feet (500') from the point where the private connection to the public sewer system would be made are exempt.

ii. Properties that require pumps external to the structure requiring sewer service to access the sewer system are exempt from mandatory connection to the sewer system.

Section 3. Code of Virginia: Water and Sewer Connections

The following is an excerpt copied verbatim from the Code of Virginia "§ 15.2-5137. Water and Sewer Connections: Exceptions" which was in effect at the time this policy was adopted. Any changes to the Code of Virginia shall take precedence over this policy.

1. Upon or after the acquisition or construction of any water system or sewer system under the provisions of this chapter, the owner, tenant, or occupant of each lot or parcel of land (i) which abuts a street or other public right of way which contains, or is adjacent to an easement containing, a water main or a water system, or a sanitary sewer which is a part of or which is or may be served by such sewer system and (ii) upon which a building has been constructed for residential, commercial, or industrial use, shall, if so required by the rules and regulations or a resolution of the Authority, with concurrence of the locality in which the land is located, connect the building with the water main or sanitary sewer, and shall cease to use any other source of water supply for domestic use or any other method for the disposal of sewage, sewage waste, or other polluting matter. All such connections shall be made in accordance with rules and regulations adopted by the Authority, which may provide for a reasonable charge for making such a connection. A private water company which purchases water from a regional Authority for sale or delivery to or within a municipality may impose a charge for connection to the water company's system in the same manner, and subject to the same restrictions, as an Authority may impose for connection to its water system, subject to the approval of the State Corporation Commission.
2. Notwithstanding any other provision of this chapter, those persons having a domestic supply or source of potable water shall not be required to discontinue the use of such water. However, persons not served by a water supply system, as defined in § 15.2-2149, producing potable water meeting the standards established by the Virginia Department of Health may be required to pay a Connection Fee, a Front Footage Fee, and a Monthly Nonuser Service Charge, which charge shall not be more than that proportion of the minimum Monthly User Charge, imposed by the Authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges. In York County and James City County, the Monthly Nonuser Fee may be as provided by general law or not more than 85 percent of the minimum Monthly User Charge imposed by the Authority, whichever is greater.
3. Notwithstanding any other provision of this chapter, those persons having a private septic system or domestic sewage system meeting applicable standards established by the Virginia Department of Health shall not be required under this chapter to discontinue the use of such system. However, such persons may be required to pay a Connection Fee, a Front Footage Fee, and a Monthly Nonuser Service Charge, which charge shall not be more than that proportion of the minimum Monthly User Charge, imposed by the Authority, as debt service bears to the total operating and debt service costs, or any combination of such fees and charges.
4. Persons who have obtained exemption from or deferral of taxation pursuant to an ordinance authorized by § 58.1-3210 may be exempted or deferred by the Authority from paying any

charges and fees authorized by Section 1.A.3, to the same extent as the exemption from or deferral of taxation pursuant to such ordinance.

5. Water and sewer connection fees established by any Authority shall be fair and reasonable. Such fees shall be reviewed by the Authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

Section 4. REVISIONS

A. Mandatory Connection was approved by Resolution by the Authority on December 17, 1984. The Board of Supervisors of Bedford County, Virginia adopted a resolution on December 17, 1984 concurring in the Authority's Resolution.

B. This policy was modified with the following amendments:
   1. July 20, 2010, effective July 21, 2010, by the Executive Director with no substantial changes, without Board action:
      a. Section 2.C was modified for clarification.
   2. May 17, 2011, effective May 18, 2011, by the Board of Directors.
      a. Modified the purpose of the policy to be more inclusive.
      b. Section 2.B.2. was added to allow for exemptions for new facilities.
      c. Moved the Code of Virginia excerpt to Section 3, and modified the language to match the recently approved legislative changes to the code.

Appendix M: Cumberland County Outreach Pamphlet

The Cumberland County Department of Public Utilities aims to provide safe and sufficient utility services to the citizens of Cumberland County in a fair, efficient and effective manner.

County of Cumberland, VA
Department of
Public Utilities

Gary Thompson
Director
1 Courthouse Circle
P.O. Box 110
Cumberland, VA 23040

Phone: (804) 492-9267
Fax: (804) 492-9224
E-mail: gthompson@cumberlandcounty.virginia.gov
www.cumberlandcounty.virginia.gov

Public Water & Sewer

Frequently Asked Questions

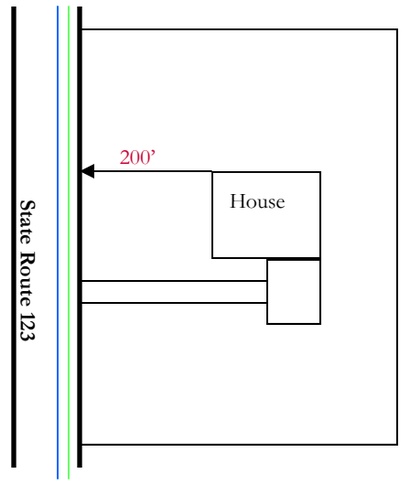
Connection Requirement Examples

County of Cumberland, VA Department of Public Utilities

Basic Connection Examples

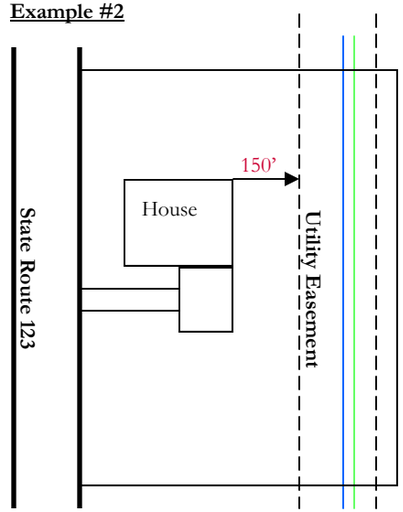
Public Water Line
Public Sewer Line

Example #1



Required to connect to public water? ***YES***
Required to connect to public sewer? ***YES***

Example #2

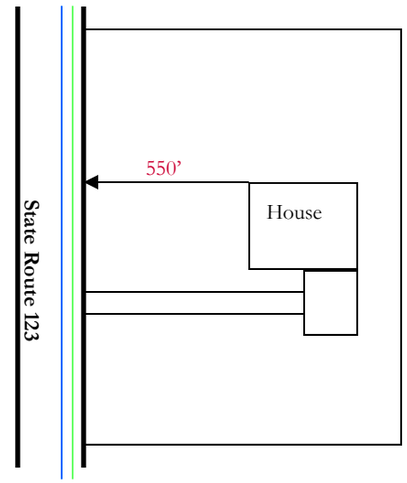


Required to connect to public water? ***YES***
Required to connect to public sewer? ***YES***

Basic Connection Examples

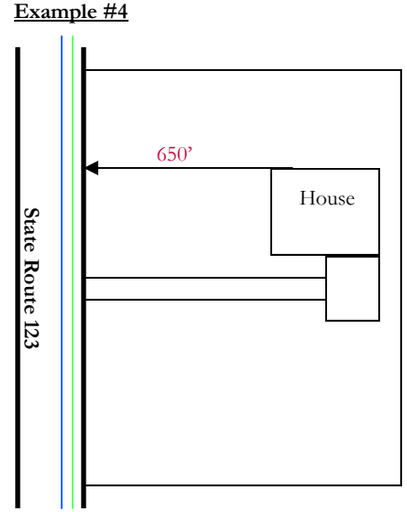
Public Water Line
Public Sewer Line

Example #3



Required to connect to public water? ***YES***
Required to connect to public sewer? ***NO***

Example #4



Required to connect to public water? ***NO***
Required to connect to public sewer? ***NO***

Frequently Asked Questions

How Do I Know If I Have To Connect?
Determining whether or not you have to connect to the utility system depends on whether or not you are in the utilities service area and how close your principal structure is to the public water and sewer system.

Determination is based on a 2-step process:

1. Does your property abut a utility right of way or the actual utility?
   - *a.* If "yes", proceed to #2.
   - *b.* If "no", you are not required to connect to the system.

2. Is the nearest point of the principal structure:
   - *a.* within 600 feet of the property line that abuts the utility right of way or actual utility?
     - *i.* If "yes", you must connect to the water system.
     - *ii.* If "no", you are not required to connect to the water system.
   - *b.* within 300 feet of the property line that abuts the utility right of way or actual utility?
     - *i.* If "yes", you must connect to the sewer system.
     - *ii.* If "no", you are not required to connect to the sewer system.

You may also review the utility service area maps, which are located in the Public Utilities and Planning Department offices. These may be used to determine if your property falls within the service area.

What If I Already Have An Existing Private Well?
If your property meets the mandatory connection requirements but has an existing well you will still be required to connect to the public water system. You may continue to use your private well supply so long as it meets the minimum standards as determined by the Virginia Department of Health. In this case, you will be responsible for a nonuser fee of $25 each month, pursuant to Section 66-51(a)(3) of the Cumberland County Code.

What If I Already Have An Existing Septic System?
If you property meets the mandatory connection requirements but has an existing septic system you are not required to connect to the public sewer system. When the septic system no longer meets the minimum standards, as determined by the Virginia Department of Health, or requires replacement, you will be required to connect to the public sewer system.

What If My Property Abuts Only One of the Utilities?
If you property abuts a utility easement containing only water *or* sewer you will only be required to connect to that utility in accordance with the listed requirements.

How Much Does It Cost To Connect?
Determining how much it costs to connect depends on what type of structure will be connected to the utility system. When new service is made available to existing structures, residential customers will have an opportunity to connect to the system for a **discounted fee of $50** and commercial customers will have an opportunity to connect for a **discounted fee of $100**. After the initial discount period for new service areas, and for all other customers of the existing system, the connection fees are listed below.

	Customer Class	Water Meter Size (inches)	Number of ERU's per Unit	Connection Fee	
				Water	Wastewater
(i)	For a dwelling, single-family, including townhouses,mobile homes that are not located in a mobile home park,and individually metered multifamily dwelling units.	5/8	1.00	$ 3,970.00	$ 2,725.00
(ii)	For a dwelling, two-family (per unit)	5/8	1.00	3,970.00	2,725.00
(iii)	For mobile homes that are located in a mobile home park and for master metered multiple-family dwellings other than multiple-family dwellings used exclusively as housing for colleges and/or universities (per unit)		0.85	3,375.00	2,316.00
(iv)	For all other customer classes	5/8	1.00	3,970.00	2,725.00
		¾	1.50	5,955.00	4,088.00
		1	2.50	9,925.00	6,813.00
		1 1/2	5.00	19,850.00	13,625.00
		2	8.00	31,760.00	21,800.00
		3	16.00	63,520.00	43,600.00
		4	25.00	99,250.00	68,125.00
		6	50.00	198,500.00	136,250.00

How Much Is My Monthly Bill?
The county bills customers monthly. Your monthly bill is based on the type and amount of usage. The monthly usage charges are listed below. In addition, a monthly administrative charge of $5.00 will be assessed for each account, except for customers who have only a water *or* sewer service account for which an administrative charge of $3.50 will be applied.

	Customer Class	*WASTEWATER CHARGES* A rate of $25 per ERU applies		*WATER CHARGES* Rate Charges as follows
		Unit equivalent	ERU's Per Unit	
(a)	Residential Non-commercial, non-residential facilities	1 family unit Per structure	1 1	$25.00 for first 2,000 gallons, additional usage @ $4.00 per 1,000 gallons
(b)	Car wash, Laundromat, Restaurants, Industries or Industrial-zoned, Salons and Barber Shops	Meter required	Meter required	$25.00 for first 2,000 gallons, additional usage @ $4.00 per 1,000 gallons
(c)	Professional, Office, Retail space (not storage) and Business (except those otherwise listed)	Per 1,000 sq. feet	1	$25.00 for first 2,000 gallons, additional usage @ $4.00 per 1,000 gallons
(d)	Nursing / convalescent & homes for the aged Motels, hotels & bed & breakfast	Per bed Per room	0.45 0.45	$25.00 for first 2,000 gallons, additional usage @ $4.00 per 1,000 gallons
(e)	Governmental & Educational	Flat rate as determined by the Board of Supervisors	Flat rate as determined by the Board of Supervisors	$100.00 first 2,000 gallons, additional usage @ $15.00 per 1,000 gallons

County of Cumberland, VA
Department of Public Utilities

Gary Thompson
Director
1 Courthouse Circle
P.O. Box 110

Phone: (804) 492-9267
Fax: (804) 492-9224

www.cumberlandcounty.virginia.gov

Appendix N: James City County Connection Policy

ORDINANCE NO. 101 AGENDA ITEM # D-2

AN ORDINANCE TO ESTABLISH A CONNECTION POLICY

FOR

SANITARY DISTRICT NO. 3

JAMES CITY COUNTY, VIRGINIA

SECTION 1

DEFINITIONS

1-0 DEFINITIONS
Unless the context specifically indicates otherwise, the meaning of of terms used herein shall be as follows:

1-1 "Administrator" shall mean the Director of Public Works or his duly appointed agent.

1-2 "County" shall mean James City County, Virginia.

1-3 "Board" shall mean Board of Supervisors, the governing body of James City County, Virginia.

1-4 "District" shall mean Sanitary District No. 3, James City County, Virginia.

1-5 "Facilities of the District" shall mean any and all component and pertinent parts of the entire systems of the Sanitary Sewer Utilities under jurisdiction of the District, including these items and others now constructed, installed, operated or maintained by the District, or any which may be approved and accepted in the future as additions or extensions of the systems.

1-6 "Person" shall mean any individual, firm, corporation, association, society or group.

1-7 "Owner or Developer" shall mean any person, firm, corporation or association having an interest, whether legal or equitable, sole or partial, in any premise which is, or may in the future be served by the facilities of the District and which is, or may in the future be responsible for design and construction of facilities to be under the jurisdiction of the Administrator and to become a part of the public utilities system of the District.

1-8 "Hampton Roads Sanitation District Commission" is the designation for the Regional Agency which will provide regional sewage transmission and treatment facilities for the Sanitary District.

1-9 "Sewage Works System" shall mean all facilities for sewage collection and transmission.

1-10 "Sanitary Sewage" shall mean that water carried waste which derives principally from dwellings, business buildings, institutions, industrial establishments and the like, exclusive of any storm and surface waters.

1-11 "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by the Sanitary District.

1-12 "Shall" is mandatory; "May" is permissive.

1-13 "Tenant" shall mean any person, firm, corporation or association who holds or possesses any premises by any kind of right or title whether in fee, for life, for years, at will or otherwise.

SECTION 2

CONNECTION POLICY

2-1 INDIVIDUALLY OWNED STRUCTURES

The owners or tenants of all structures used for human occupancy employment, recreation, or other purposes, constructed subsequent to the passage of these Rules and Regulations and situated within the District at a distance not greater than 250 feet from any street, alley or right-of-way in which there is located a District-owned sanitary sewer, shall be required to install suitable toilet facilities therein, and to connect such facilities to the public sewer.

Structures within the District at a distance not greater than 250 feet from any street, alley or right-of-way in which there is located a District-owned sanitary sewer and completed before the passage of these regulations must comply with the requirements of this Section within one year after service is available.

2-2 SUBDIVISION, COMMERCIAL AND INDUSTRIAL DEVELOPMENTS

Owners/developers shall connect these facilities to the District sewer facilities in accordance with Section 1-4 of the Operating Policy.

2-3 No person shall make connection to the facilities of the Hampton Roads Sanitation Commission without the written approval of the Board. The regulations of the Hampton Roads Sanitation District Commission shall supersede any conflicting provisions of this Ordinance.

SECTION 3

MISCELLANEOUS

3-1 PENALTY FOR VIOLATIONS

Any person failing to comply with the provisions of Section 2-1 or 2-2 shall be guilty of a misdemeanor and shall be subject to a fine not to exceed $50.00 for each such offense. Each day of such failure shall constitute a separate offense.

3-2 SEVERABILITY

Should any section or provision of this Ordinance be decided by the courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

3-3 EFFECTIVE DATE

The effective date of this Ordinance shall be January 10, 1977.

John E. Donaldson, Chairman
Board of Supervisors

ATTEST:

James B. Oliver, Jr.
Clerk to the Board