Total Maximum Daily Load (TMDL) Report for Shellfish Areas Listed Due to Bacterial Contamination

York River:
Gloucester Point to Jones Creek

DEQ
VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Chesapeake Bay:
York River: Gloucester Point to Jones Creek Watersheds
Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Areas Listed Due to Bacteria Contamination

Virginia Department of Environmental Quality

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Management of water quality is a process intended to protect waters for a variety of uses. The first step in the process is the identification of desired uses for each water body. There are typically a number of physical, chemical and/or biological conditions that must exist in a water body to allow for a desired use to exist. In Virginia, most inshore tidal waters are identified as potential shellfish growing waters. In order to support shellfish propagation without risk to human consumers, shellfish waters must have very low levels of pathogenic organisms. Virginia, as most other states, uses fecal coliforms (FC) as an indicator of the potential presence of pathogenic organisms. To maintain the use of a water body for direct shellfish harvesting, the goal is to ensure the concentration of fecal coliforms entering the water body does not exceed a "safe" level. The safe level is set as the standard against which water quality monitoring samples are checked.

When water quality monitoring detects levels of fecal coliforms above allowable, "safe" levels, managers must identify the potential sources and plan to control them. The prescribed method for figuring out what must be controlled to attain the water quality standard is the calculation of a total maximum daily load (TMDL). The TMDL is the amount of fecal coliforms that may be introduced by each potential source without exceeding the water quality standard for fecal coliforms in shellfish growing waters.

The process of developing a shellfish water TMDL may be generalized in the following manner:

1. Water quality monitoring data are used to determine if the bacterial standard for shellfish have been violated;
2. Potential sources of fecal bacteria loading within the contributing watershed are identified;
3. The necessary reductions in fecal bacteria pollutant load to achieve the water quality standard are determined;
4. The TMDL study is presented to the public to garner comment;
5. An implementation strategy to reduce fecal bacteria loads is written into a plan and subsequently implemented;
6. Water quality monitoring data are used to determine if the bacterial standard is being met for shellfish waters.

Different approaches can be used to determine the sources of fecal pollution in a water body. Two distinctly different approaches are watershed modeling and bacterial source tracking (BST). Watershed modeling begins on the land, identifying potential sources based on information about conditions in the watershed (e.g. numbers of residents, estimated wildlife populations, estimated of livestock, etc.). BST begins in the water, identifying sources of fecal coliforms, specifically the dominant fecal coliform *Escherichia coli*, to shellfish waters based on either genetic or phenotypic characteristics of the coliforms. Virginia's Department of Environmental Quality has decided to utilize BST, and specifically to use a method called antibiotic resistance analysis (ARA). This method assumes that fecal bacteria found in four sources: humans, wildlife, livestock, and domestic animals will all differ in their reactions to antibiotics. Thus, when samples of fecal bacteria collected in the water quality monitoring program are exposed to specific antibiotics the pattern of responses allows

matching similarities to the response patterns of bacteria from known sources which have been accumulated in a "source library". Through this analysis investigators also estimate the relative proportion of the fecal bacteria derived from each of the four general source classes and assumes this proportion reflects the relative contribution from the watershed. The resulting estimates of the amount of fecal coliform pollution coming from each type of source can then be used to allocate reductions necessary to meet the water quality standard for shellfish growing waters. Identifying and agreeing on the means to achieve these reductions represent the TMDL implementation plan. Continued water quality monitoring will tell whether the efforts to control sources of fecal coliforms in the watershed have succeeded.

Fecal Coliform Impairment

This document details the development of bacterial TMDLs for five impairments in the area from Gloucester Point to Jones Creek on the north shore of the York River identified as shellfish growing area 47 and 47A. These impairments are identified as Timberneck Creek **(**VAT-F26E-16) condemnation 47-3, Cedarbush Creek (VAT-F26E-17) condemnation 47-107, Carter Creek (VAT-F26E-18) condemnation 47A-108, Aberdeen Creek (VAT-F26-E15) condemnation 47A-78, and Jones Creek (VAT-F26E-13) 47A-115A located in Gloucester County, Virginia. The applicable state standard specifies that the number of fecal coliform bacteria shall not exceed a maximum allowable level of geometric mean of 14 most probable number (3-tube MPN) per 100 milliliters (ml) and a 90^{th} percentile geometric mean value of 49 MPN/100ml. (Virginia Water Quality Standard 9-VAC 25-260-5). In development of this TMDL, the 90^{th} percentile 49 MPN/100 ml was used, since it represented the more stringent standard.

Sources of Fecal Coliform

Potential sources of fecal coliform consist primarily of non-point source contributions, as there are no permitted point source discharges in the watershed. Non-point sources include wildlife; livestock; land application of bio-solids; recreational vessel discharges; failed, malfunctioning, or non-operational septic systems, and uncontrolled discharges (straight pipes conveying gray water from kitchen and laundry areas of private homes, etc.).

Water Quality Modeling

A volumetric model was used for this TMDL study because the character of the water bodies to be modeled is relatively simple from a hydrologic perspective: for example, small in area and volume with a single, unrestricted connection to receiving waters. This approach uses the volume of the water body, the measured levels of bacteria pollution, and the allowable levels of instream fecal coliform bacteria in order to establish the existing and allocation conditions.

Determination of Existing Loadings

To assist in partitioning the loads from the diverse sources within the watershed, water quality samples of fecal coliform bacteria were collected for one year and evaluated using an antibiotic resistance analysis in a process called bacterial source tracking. These samples were compared to a reference

library of fecal samples from known sources. The resulting data were used to assign portions of the load within the watershed to wildlife, humans, pets or livestock. The results of this analysis indicated that the primary source of fecal coliforms is human and pets with livestock and wildlife as secondary contributors. The presence of a large signature attributable to one component is sufficient to establish potential directions for remediation under a future implementation plan.

Load Allocation Scenarios

The next step in the TMDL process was to determine the appropriate water quality standard to be applied. This was set as the 90th percentile standard because the data established that the 90th percentile required the greater reduction. Calculated results of the model for each segment were used to establish the existing load in the system. The load necessary to meet water quality standards was calculated in a similar fashion using the water quality standard criterion in place of the ambient water quality value. The difference between these two numbers represents the necessary level of reduction in each segment.

Finally the results of the BST developed for each segment were used to partition the load allocation that would meet water quality standards according to source. The results of the model, the BST source partitioning and the reductions necessary for each segment are shown below.

TMDL Summary for Bacteria Impairments of the Shellfish Growing Area 47: Gloucester Point to Jones Creek Watersheds Geometric Mean Analysis of Current Load and Estimated Load Reduction

Condemnation Area	Volume (m^3)	Fecal Coliform (MPN/100ml)	WQ Standard MPN/100 ml	Current Load (MPN/day)	Allowable Load (MPN/day)	Required Reduction (%)
47A-115A Jones Creek (VAT-F26E-13)	42660	13.0	14	5.55E+09	5.97E+09	0%
47A-78* Aberdeen Creek (VAT-F26E-15)	54270	69.2	14	3.76E+10	7.60E+09	80%
47A-108* Carter Creek (VAT-F26E-18)	123750	67.9	14	8.40E+10	1.73E+10	79%
47-107* Cedarbush Creek (VAT-F26E-17)	56520	73.4	14	4.15E+10	7.91E+09	81%
47-3 Timberneck Creek (VAT-F26E-16)	214560	47.4	14	1.02E+11	3.00E+10	70%

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

TMDL Summary for Bacteria Impairments of the Shellfish Water Quality Standard Growing Area 47: Gloucester Point to Jones Creek Watersheds 90th Percentile Analysis of Current Load and Estimated Load Reduction

Condemnation Area	Volume (m^3)	*Fecal Coliform (MPN/100ml)	WQ Standard MPN/100ml	Current Load (MPN/day)	Allowable Load (MPN/day)	Required Reduction (%)
47A-115A Jones Creek (VAT-F26E-13)	42660	67.8	49	2.89E+10	2.09E+10	28%
47A-78* Aberdeen Creek (VAT-F26E-15)	54270	620.3	49	3.37E+11	2.66E+10	92%
47A-108* Carter Creek (VAT-F26E-18)	123750	433.8	49	5.37E+11	6.06E+10	89%
47-107* Cedarbush Creek (VAT-F26E-17)	56520	554.1	49	3.13E+11	2.77E+10	91%
47-3 Timberneck Creek (VAT-F26E-16)	214560	184.0	49	3.95E+11	1.05E+11	73%

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

Margin of Safety

In order to account for uncertainty in modeled output, a margin of safety (MOS) was incorporated into the TMDL development process by making very conservative choices. A margin of safety can be incorporated implicitly in the model through the use of conservative estimates of model parameters, or explicitly as an additional load reduction requirement. Individual errors in model inputs, such as data used for developing model parameters or data used for calibration, may affect the load allocations in a positive or a negative way. The purpose of the MOS is to avoid an overall bias toward load allocations that are too large for meeting the water quality target. An implicit MOS was used in the development of this TMDL through selection of a water quality standard providing a high level of protection, utilization of entire segment volumes for model calculations, averaging extreme high and low values to ensure that the more protective condition with the largest available data set was addressed and emphasizing watershed-based implementation measures.

Recommendations for TMDL Implementation

The goal of this TMDL was to develop an allocation plan that achieves water quality standards during the implementation phase. Virginia's 1997 Water Quality Monitoring, Information and Restoration Act states in section 62.1-44.19.7 that the "Board shall develop and implement a plan to achieve fully supporting status for impaired waters".

The TMDL developed for these impairments, provide allocation scenarios that will be a starting point for developing implementation strategies. Additional monitoring aimed at targeting the necessary reductions is critical to implementation development. Once established, continued monitoring will aid in tracking success toward meeting water quality milestones.

Public participation is critical to the implementation process. Reduction in non-point source loading is the crucial factor in addressing the problem. These sources cannot be addressed without public understanding of and support for the implementation process. Stakeholder input will be critical from the onset of the implementation process in order to develop an implementation plan that will be truly effective.

Public Participation

During development of the TMDL for the Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47 and 47A, public involvement was encouraged through a public participation process that included public meetings and stakeholder meetings.

The first public meeting was held on September 21, 2006. A basic description of the TMDL process and the agencies involved was presented and a discussion was held to regarding the source assessment input, bacterial source tracking, and model results. This meeting was followed by development of the final draft TMDL and a second public meeting held on March 6, 2007.

Input from these meetings was utilized in the development of the TMDL and improved confidence in the allocation scenarios and TMDL process.

1.0 Introduction

This document details the development of bacterial Total Maximum Daily Load (TMDL) for one segment in each of the Timberneck, Cedarbush, Carter, Aberdeen and Jones Creek watersheds in Growing Area 47 in Gloucester County, Virginia. These five waters are listed as impaired on Virginia's 303(d) Total Maximum Daily Load Priority List. The TMDL is one step in a multi-step process that includes a high level of public participation in order to address water quality issues that can affect public health and the health of aquatic life.

1.1 Listing of Water Bodies under the Clean Water Act

Water quality standards are regulations based on federal or state law that set numeric or narrative limits on pollutants. Water quality monitoring is performed to measure these pollutants and determine if the measured levels are with the bounds of the limits set for the uses designated for the water body. The water bodies which have pollutant levels above the designated standards are considered impaired for the corresponding designated use (e.g. swimming, drinking, shellfish harvest, etc.). The impaired waterways are listed on the §303 (d) list reported to the Environmental Protection Agency. Those waters placed on the list require the development of a TMDL intended to eliminate the impairment and bring the water into compliance with the designated standards.

TMDLs represent the total pollutant loading that a water body can receive without violating water quality standards. The TMDL process establishes the allowable loading of pollutants for a water body based on the relationship between pollution sources and in-stream water quality conditions. By following the TMDL process, states can establish water quality based controls to reduce pollution from both point and non-point sources to restore and maintain the quality of their water resources (EPA, 1991).

Fecal coliform bacteria are the most common cause for the impairments in Virginia shellfish growing waters. This group of bacteria is considered an indicator of the presence of fecal contamination. The most common member of the fecal coliform groups is *Escherichia coli*. Fecal coliforms are associated with the fecal material derived from humans and warm-blooded animals. The presence of fecal coliform bacteria in aquatic environments is an indication that the water may have been contaminated by pathogens or disease-producing bacteria or viruses. Waterborne pathogenic diseases include typhoid fever, viral and bacterial gastroenteritis, and hepatitis A. Filter-feeding shellfish can concentrate these pathogens which can be transmitted and cause disease when eaten uncooked. Therefore, the presence of elevated numbers of fecal coliform bacteria is an indicator that a potential health risk exists for individuals consuming raw shellfish. Fecal contamination can occur from point source inputs of domestic sewage or from nonpoint sources of human, (e.g., malfunctioning septic systems) or animal wastes.

Because the fecal coliform indicator does not provide information on the source or origin of fecal contamination, Agencies of the Commonwealth, including the Department of Environmental Quality (DEQ), the Virginia Department of Health – Division of Shellfish sanitation (VDH-DSS) and the Department of Conservation and Recreation (DCR) have worked together with state universities, the U.S. Geological Survey and the U.S. Environmental Protection Agency to develop methods to assess sources of fecal coliforms to assist in development of TMDLs in impaired shellfish waters.

As a group these methods are usually called bacterial or microbial source tracking (BST or MST). This study utilizes bacteria source tracking (BST) to determine the most probable sources of fecal coliform in the water. To assist with the analysis and development of the TMDLs for impaired shellfish waters, the Department of Environmental Quality contracted the Virginia Institute of Marine Science (VIMS).

1.2 Overview of the TMDL Development Process

A TMDL study for shellfish waters is the first part of a phased process aimed at restoring water quality. This study is designed to determine how much of the pollutant input needs to be reduced in order to achieve water quality standards. The second step in the process is the development of an implementation plan that identifies which specific control measures are necessary to achieve those reductions, their timing for implementation and at what cost. The implementation plan will also outline potential funding sources. The third step will be the actual implementation process. Implementation will typically occur in stages that allow a review of progress in reducing pollutant input, refine bacteria loading estimates based upon additional data and to make any identified changes to pollutant control measures.

The TMDL development process also must account for seasonal and annual variations in precipitation, flow, land use, and pollutant contributions. Such an approach ensures that TMDLs, when implemented, do not result in violations under a wide variety of scenarios that affect bacterial loading.

2.0 Applicable Water Quality Standard

Water quality standards are provisions of state or federal law which consist of a designated use or set of uses for the waters and water quality criteria based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the State Water Control Law (§62.1-44.2 et seq. of the Code of Virginia) and the federal Clean Water Act (33 USC §1251 et seq.). According to Virginia Water Quality Standards (9 VAC 25-260-5), the term

"water quality standards means provisions of state or federal law which consist of a designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the State Water Control Law (§62.1-44.2 et seq. of the Code of Virginia) and the federal Clean Water Act (33 USC §1251 et seq.)."

2.1 Designated Uses and Criteria

Generally, all tidal waters in Virginia are designated as shellfish waters. The identification of the applicable river reaches can be found in the river basin tables at 9VAC25-260-390 et seq. For a

shellfish supporting water body to be in compliance with Virginia bacterial standards, VADEQ specifies the following criteria (9 VAC 25-260-160):

"In all open ocean or estuarine waters capable of propagating shellfish or in specific areas where public or leased private shellfish beds are present, and including those waters on which condemnation or restriction classifications are established by the State Department of Health the following criteria for fecal coliform bacteria shall apply; The geometric mean fecal coliform value for a sampling station shall not exceed an MPN (most probable number) of 14 per 100 milliliters. The 90th percentile shall not exceed an MPN of 43 for a 5 tube, 3 dilution test or 49 for a 3 tube, 3 dilution test."

2.2 Classification of Virginia's Shellfish Growing Areas

The Virginia Department of Health, Division of Shellfish Sanitation (DSS) is responsible for classifying shellfish waters and protecting the health of bivalve shellfish consumers. The VDH- DSS follows the requirements of the National Shellfish Sanitation Program (NSSP), which is regulated by the U.S. Food and Drug Administration. The NSSP specifies the use of a shoreline survey as its primary tool for classifying shellfish growing waters. Fecal coliform concentrations in water samples collected in the immediate vicinity of the shellfish beds function to verify the findings of the shoreline survey and to define the border between approved and condemned (unapproved) waters. Much of the DSS effort is focused on locating fecal contamination, and in this manner minimizing the introduction of human pathogens to shellfish waters.

DSS designs and operates the shoreline survey to locate sources of pollution within the watersheds of shellfish growing areas. This is accomplished through a property-by-property inspection of the onsite sanitary waste disposal facilities of most properties on un-sewered sections of watersheds, and investigations of other sources of pollution such as wastewater treatment plants (WTP), marinas, livestock operations, landfills, etc. The information is compiled into a written report with a map showing the location of the sources of real or potential pollution found and sent to the various agencies that are responsible for regulating these concerns in the city or county. Once an onsite problem is identified, local health departments (LHDs), and/or other state and local agencies may play a role in the process of correcting the deficiencies.

The VDH-DSS collects monthly seawater samples at over 2,000 stations in the shellfish growing areas of Virginia. Though they continuously monitor sample data for unusual events, they formally evaluate shellfish growing areas on an annual basis. The annual review uses data from the most recent 30 samples (typically 30 months), collected randomly with respect to weather. The data are assessed to determine whether the water quality standards are met. If the water quality standards are exceeded, the shellfish area is closed for the harvest of shellfish that go directly to market. Those areas that marginally exceed the water quality standard and are closed for the direct marketing of shellfish are eligible for harvest of shellfish under permit from the Virginia Marine Resources Commission and VDH-DSS. The permit establishes controls that in part require shellfish be allowed to depurate for 15 days in clean growing areas or specially designed licensed on shore facilities. Shellfish in growing areas that may be highly polluted, such as those in the immediate vicinity of a wastewater treatment facility (prohibited waters), are not allowed to be moved to clean waters for self purification.

3.0 Watershed Characterization

The Timberneck and Cedarbush Creeks in Growing Area 47, and Carter, Aberdeen and Jones Creeks, in Growing Area 47A are located entirely within Gloucester County upstream of its eastern terminus on the Chesapeake Bay at Guinea Neck on the York River. The watershed contributing to Growing Area 47 and 47A is bounded on the south by the York River, on the west by Ark Road at Almondsville and on the north and east by State Route 17. The location of the combined watershed is shown in Figure 3.0

The drainage area of the individual watersheds are as follows: 1) Timberneck Creek, 2274 acres or 4.3 mi^2; 2) Cedarbush Creek, , 1415 acres or 2.2 mi^2 ; 3) Carter Creek , 5030 acres or 7.9 $mi^{2;}$ 4) Aberdeen Creek, 1939 acres or 3 mi^2 ; and 5) Jones Creek, 2609 acres or 4.1 mi^2. The watersheds have an estimated year round population according to the 2000 US Census of 2849 for growing area 47A and 3287 for growing area 47.

A map of the land use in each of these sub-watersheds are shown in Figures 3-1A through 3.1E. A table summarizing the land use for these watersheds is shown in Table 3.2. In each of these watersheds the dominant land use type is forest followed by agriculture. There are approximately 5 marinas, or boating related facilities, within the two watersheds. Estimations of the populations of livestock and wildlife, as well as numbers of septic systems within the watershed are shown in Table 3-1. Appendix B provides a description of data and list of data sources for Table 3.1.

Table 3.1 Estimated Animal Populations and Septic Systems Growing Area 47

Fecal Coliform Sources	Condemnation Area 47-107 Carter Creek	Condemnation Area 47-108 Cedarbush Creek	Condemnation Area 47-115A Jones Creek	Condemnation Area 47-3 Timberneck Creek	Condemnation Area 47-78 Aberdeen Creek
Cattle	27	8	15	18	13
Chicken	30	11	16	19	13
Deer	131	39	63	63	47
Dog	307	94	146	155	109
Duck	204	191	128	233	73
Geese	141	132	88	161	50
Horse	11	2	7	8	6
Pig	6	2	3	4	3
Raccoon	354	135	138	177	125
Septic	529	161	252	268	187

*** These are estimates based upon extrapolations of county wide data applied to local land use types**.

Figure 3.0
Location of Growing Area 47 Watershed in Gloucester County, Virginia

Figure 3.1A

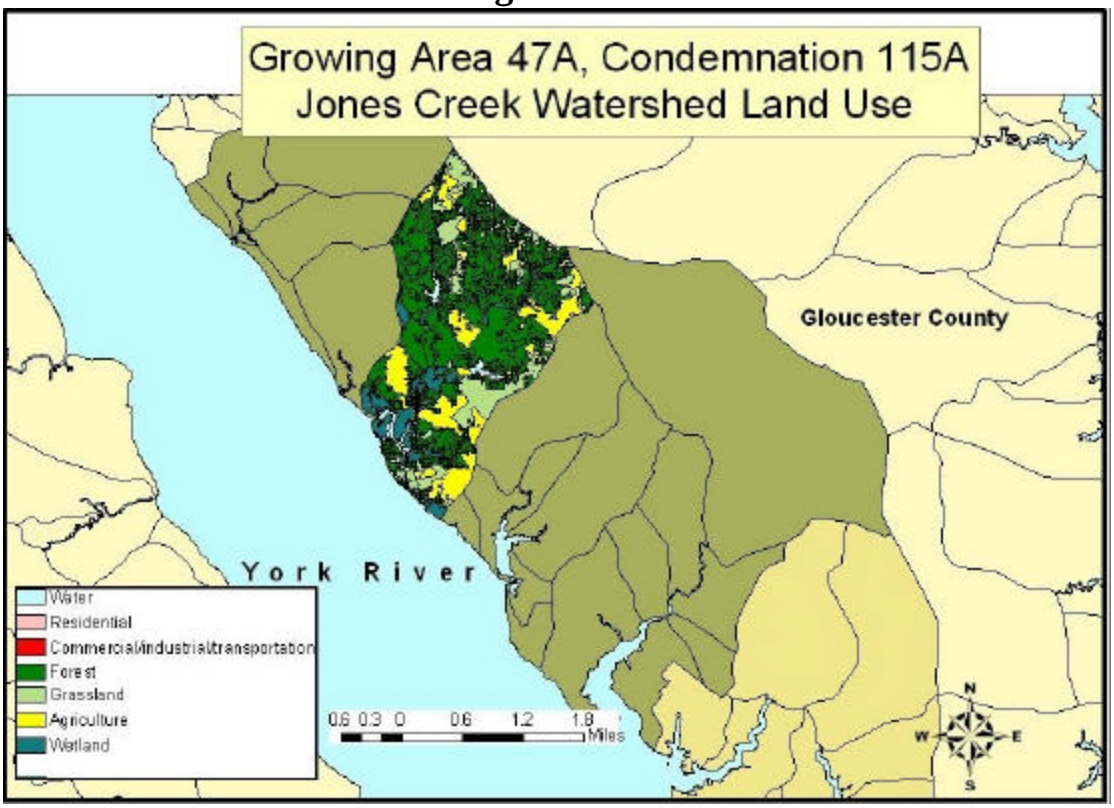


Figure 3.1B

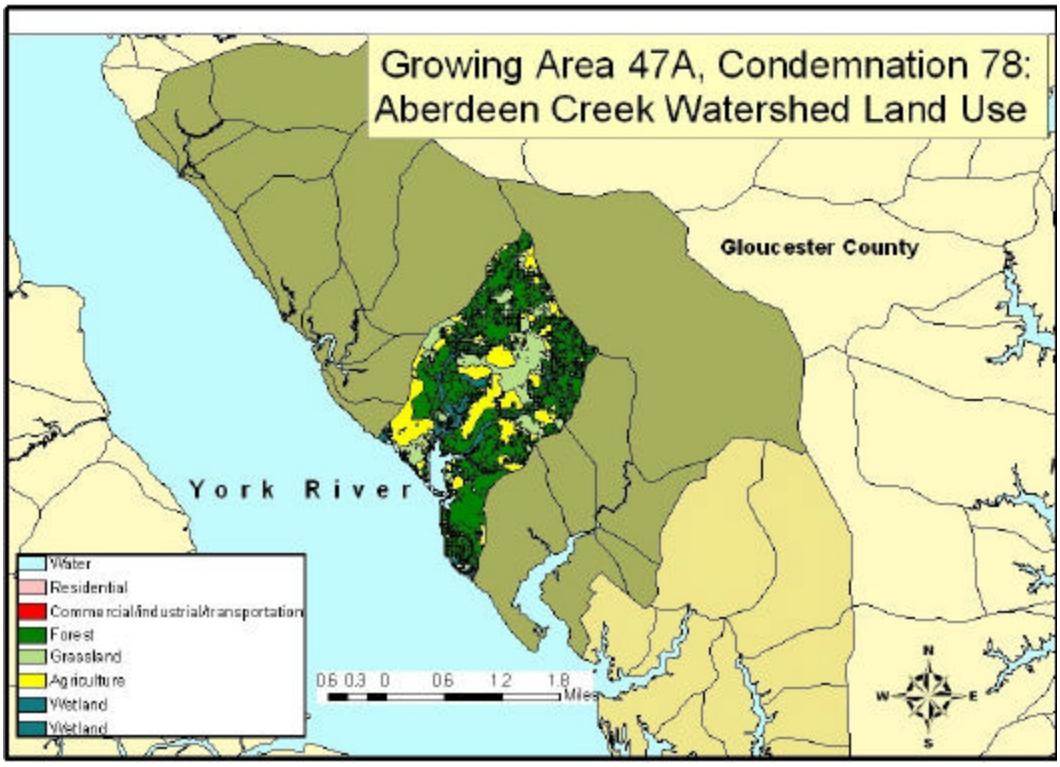


Figure 3.1C

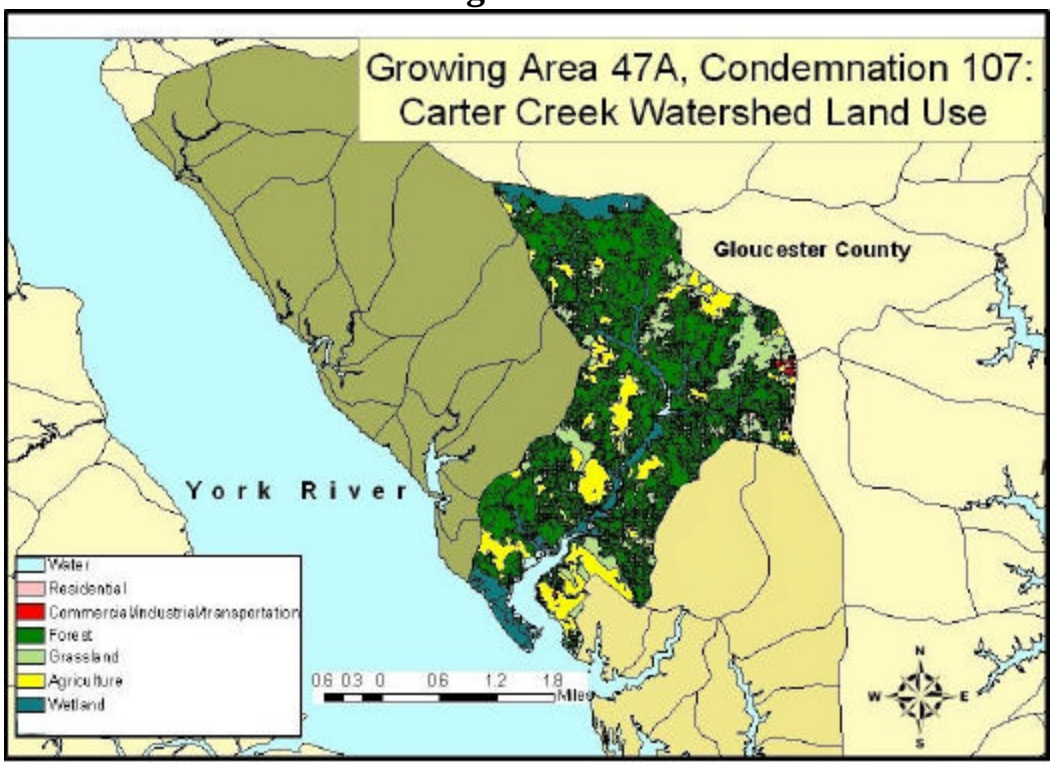


Figure 3.1D

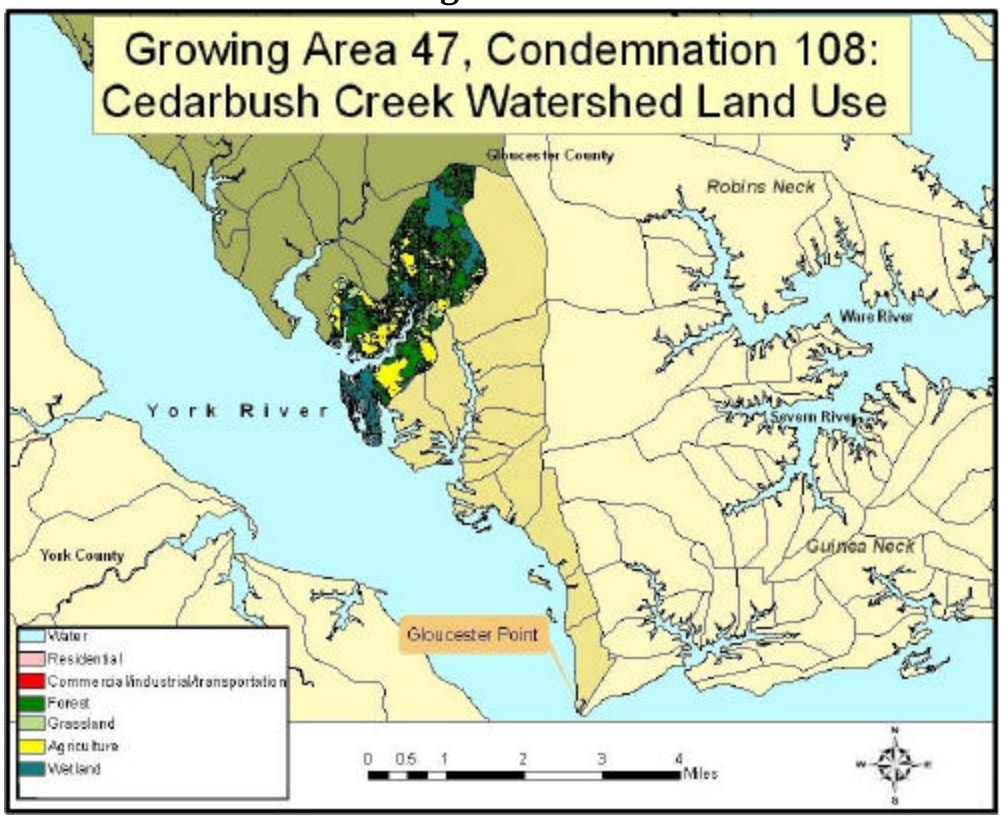
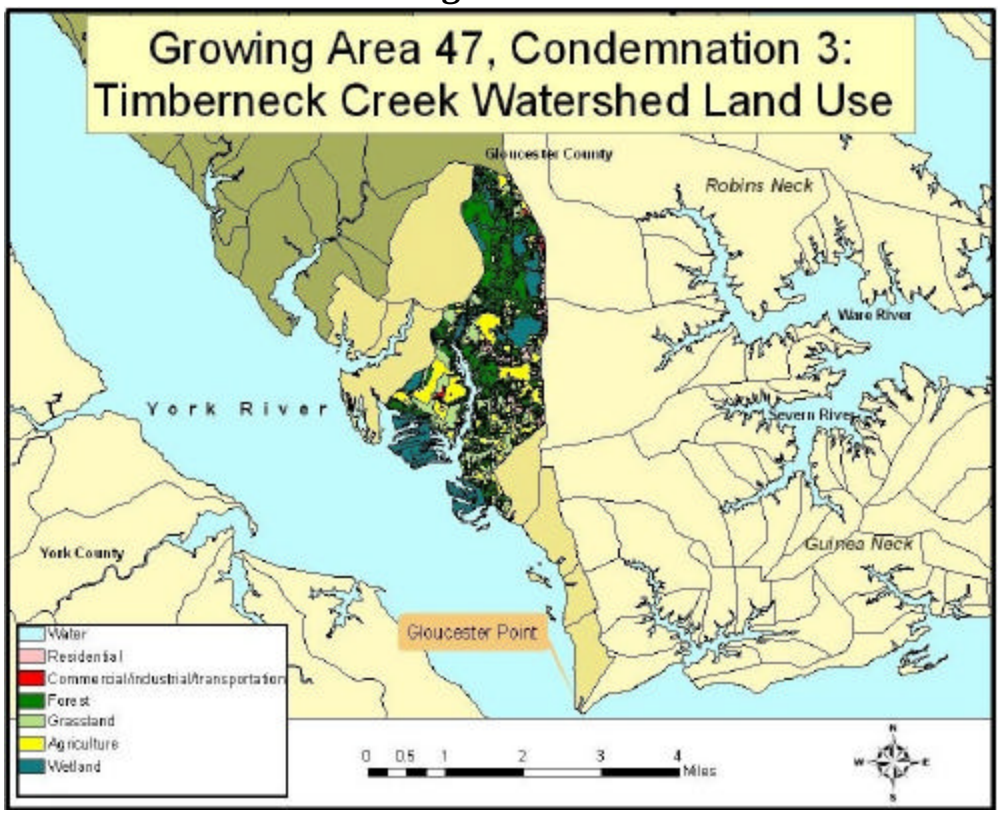


Figure 3.1E



4.0 Water Quality Impairment and Bacterial Source Assessment

4.1 Water Quality Monitoring

The shellfish water quality monitoring network consists of 11 monitoring stations for Timberneck Creek, 3 for Cedarbush Creek, 6 for Carter Creek, 3 for Aberdeen Creek and 2 for Jones Creek. These stations are monitored by the VDH-DSS for fecal bacteria. The locations of the water quality monitoring stations are shown in Figure 4.1A and 4.1B. At least one station in each of these watersheds was sampled for bacteria source tracking. This TMDL study examined bacterial monitoring data at these stations for a period of time from June of 2003 through December 2005. A summary of water quality data for the monitoring period preceding the TMDL study is shown in Table 4.1. Graphs depicting the geometric mean, 90th percentile, and ambient bacteria data are shown in Figures 4.3A through 4.3M. Data for those stations associated with a condemnation from 1998, as indicated by a condemnation number in Table 4.1 are used for the TMDLs in this study.

The closures in the growing areas are characterized based on all monitoring stations (see Figure 4-1A and 4.1B) in the closed area. The impaired shellfish closure areas are shown in Figure 4.2. To facilitate an effective assignment of the appropriate level of protection for this system, the station with the highest water quality data was used to assess the existing load in each condemned area. This provides an increased margin of safety and provides a target that can be easily comprehended and uniformly implemented while retaining the necessary protection for the affected waters.

Table 3.2
Summary of Estimated Land Use by Type
in the Impaired Watersheds of Growing Area 47 And 47A

Land Use Type	Condemnation Area 47A-115A Jones Creek	Condemnation Area 47A-78* Aberdeen Creek	Condemnation Area 47A-108* Carter Creek	Condemnation Area 47-107* Cedarbush Creek	Condemnation Area 47-3 Timberneck creek
Water	**1.6%**	**1.3%**	**3.6%**	**1.5%**	**3%**
Wetland	**8.8%**	**7.1%**	**22.9%**	**12.3%**	**20%**
Residential	**>0.1%**	**>0.1%**	**0.1%**	**0.4%**	**3%**
Commecial/ Industrial	**>0.1%**	**0.2%**	**0.2%**	**>0.1%**	**1%**
Agriculture	**18.5%**	**21.8%**	**21.2%**	**15.7%**	**21%**
Grassland	**13.5%**	**15.3%**	**6.9%**	**10.7%**	**15%**
Forest	**57.4%**	**54.4%**	**45.2%**	**59%**	**37%**

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

Figure 4.1 A

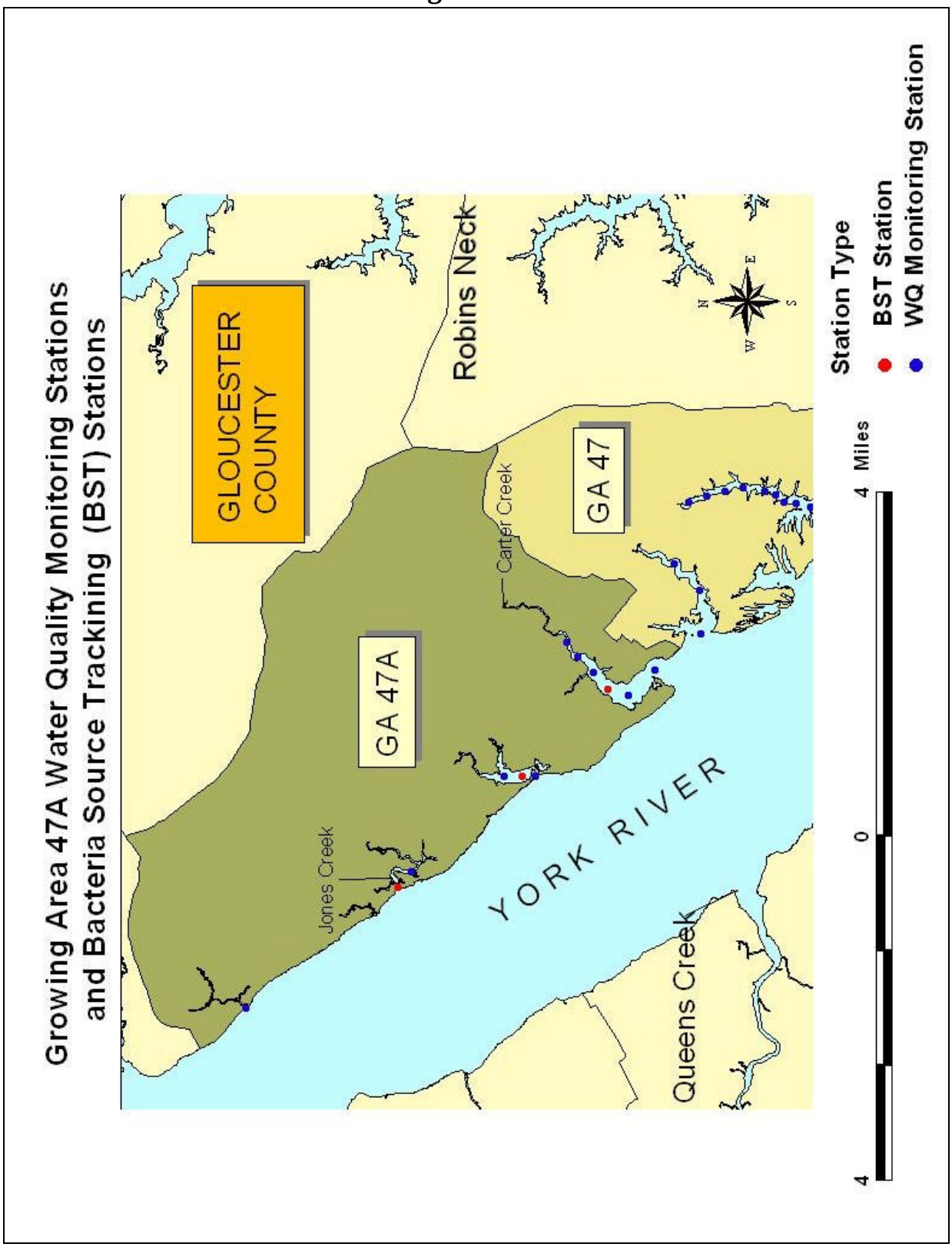

Growing Area 47A Water Quality Monitoring Stations
and Bacteria Source Trackining (BST) Stations
GLOUCESTER COUNTY
Robins Neck
GA 47
GA 47A
Carter Creek
Jones Creek
YORK RIVER
Queens Creek
N
E
S
W
Station Type
BST Station
WQ Monitoring Station
4 Miles
4
0

Figure 4.1 B

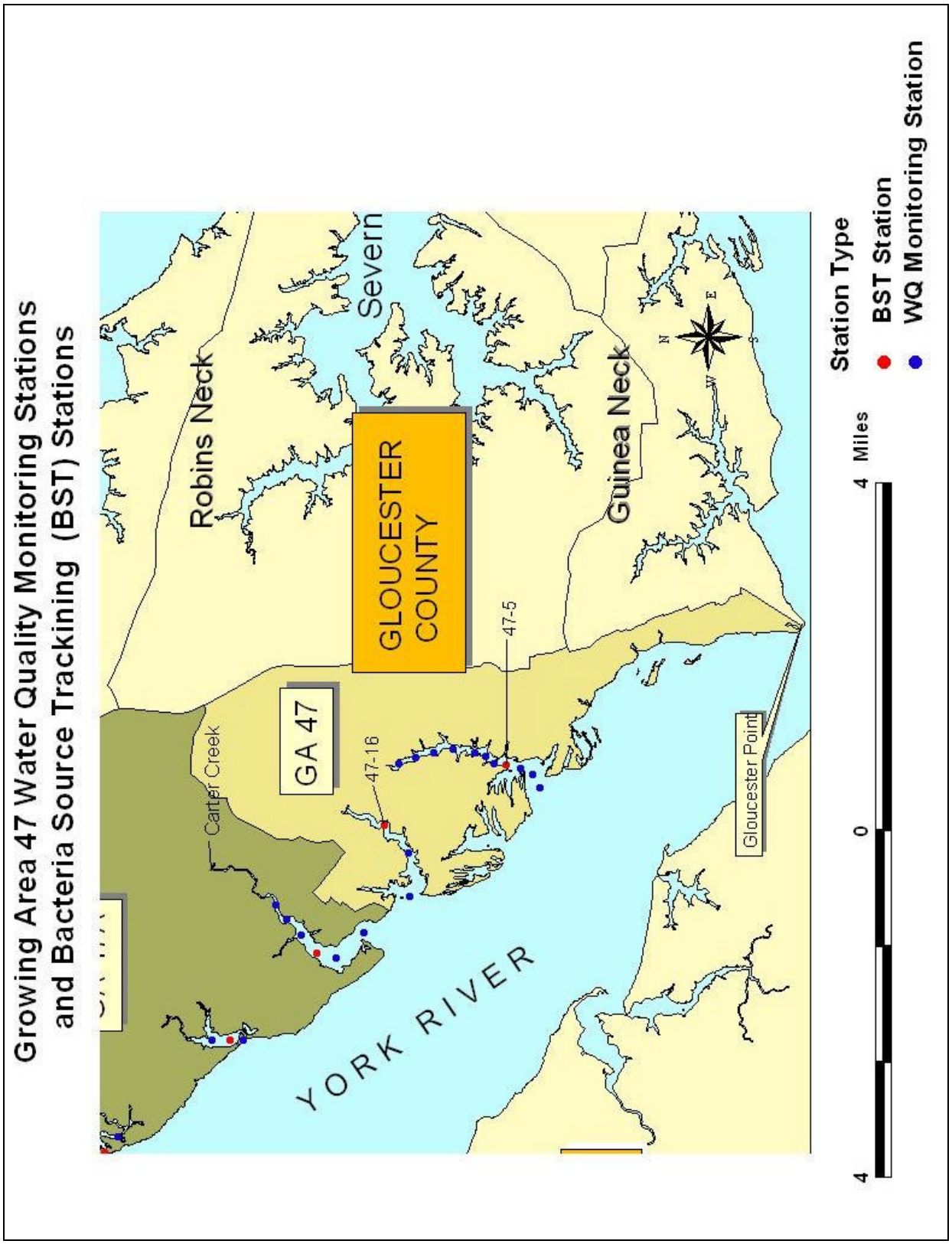

Growing Area 47 Water Quality Monitoring Stations
and Bacteria Source Tracking (BST) Stations
Robins Neck
Severn
GLOUCESTER
COUNTY
Guinea Neck
GA 47
47-5
47-16
Carter Creek
Gloucester Point
YORK RIVER
Station Type
BST Station
WQ Monitoring Station
4 Miles
0
4

Figure 4.2
Location of Streams Impaired for Shellfish Use
Due to Bacteria in Growing Area 47 and 47A

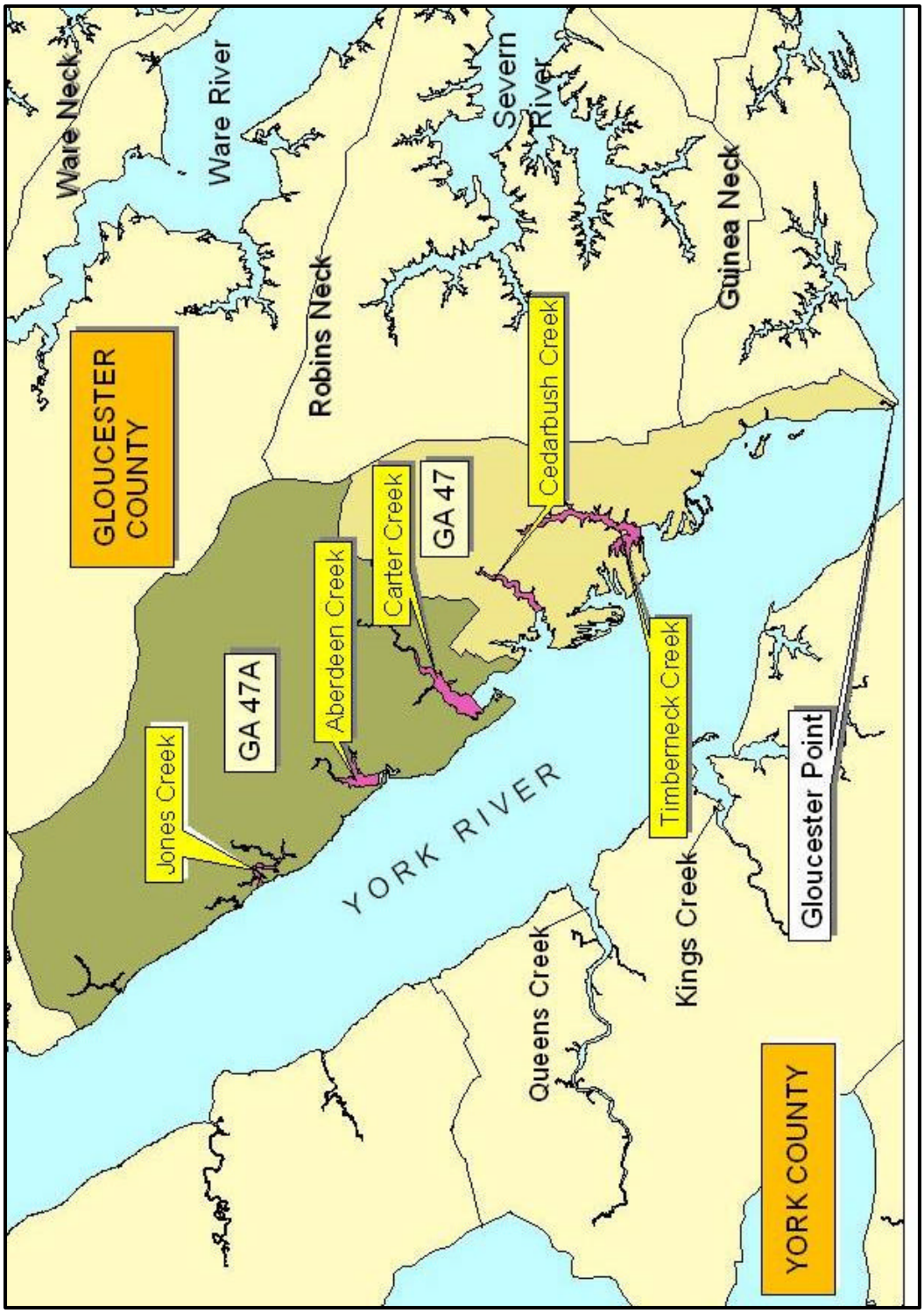


Table 4.1 Water Quality Data Summary: Growing Area 47 and 47A

Station	Condemnation Area	Total Observations (1/month)	Geometric Mean	Station Violates Geometric Standard: 14 MPN	90th Percentile	Station Violates 90th Percentile Standard: 49 MPN
47-2	47-3	30	5.7	No	15.9	No
47-3	47-3	30	8.7	No	36.1	No
47-4	47-3	30	12.6	No	70.8	Yes
47-5	47-3	30	23.0	Yes	105.7	Yes
47-6	47-3	30	26.8	Yes	73.9	Yes
47-8	47-3	30	47.4	Yes	184	Yes
47-14	47-108	30	7.5	No	26.1	Yes
47-15	47-108	30	24.9	Yes	123.5	Yes
47-16	47-108	30	73.4	Yes	554.1	Yes
47-17	47-107	30	9.4	No	49.4	Yes
47-18	47-107	30	21.5	Yes	117	Yes
47-18.2	47-107	30	35.7	Yes	208.9	Yes
47-18.4	47-107	30	67.9	Yes	433.8	Yes
47-19	47-78	30	12.1	No	55.2	Yes
47-20	47-78	30	26.8	Yes	211.3	Yes
47-21	47A-78	30	69.2	Yes	620.3	Yes
47-22	47A-115A	30	13.0	No	67.8	Yes

Figure 4.3A

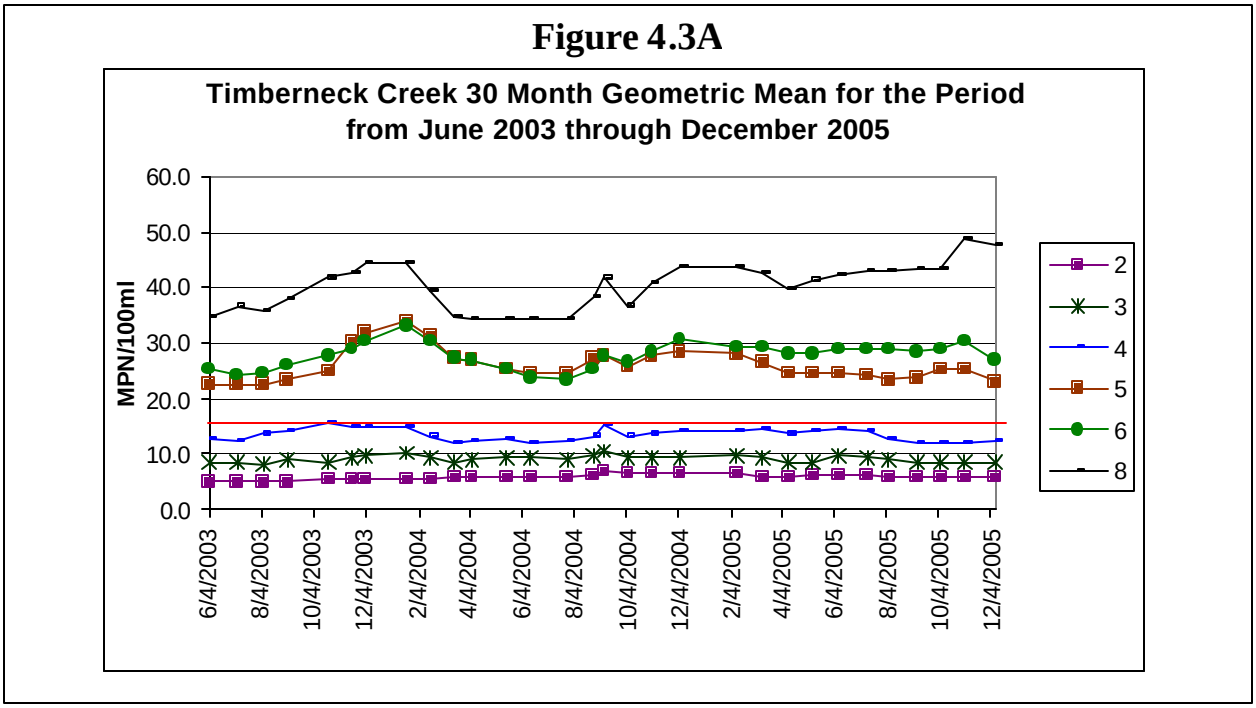


Figure 4.3B

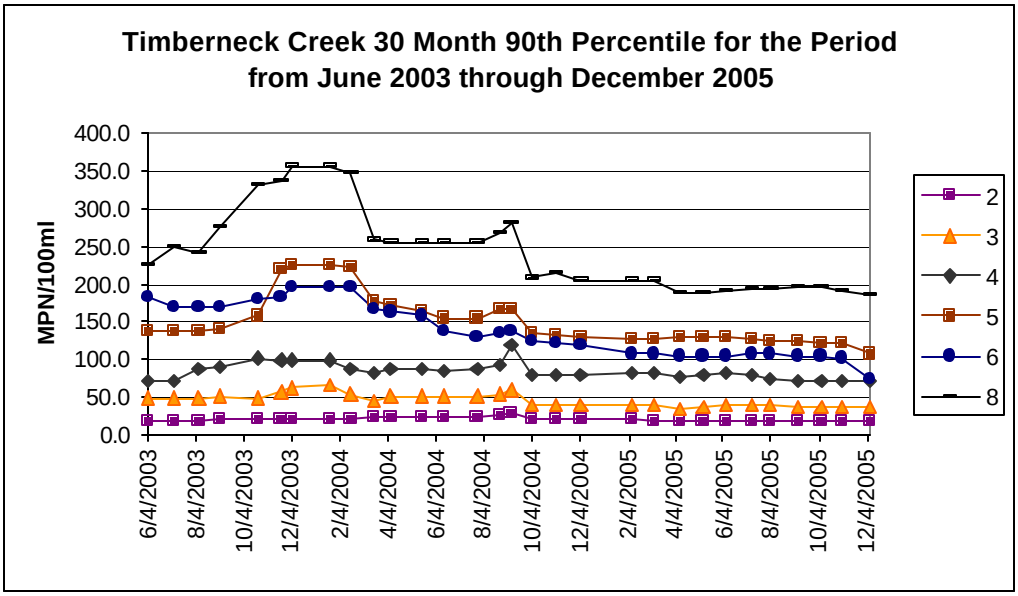


Figure 4.3C

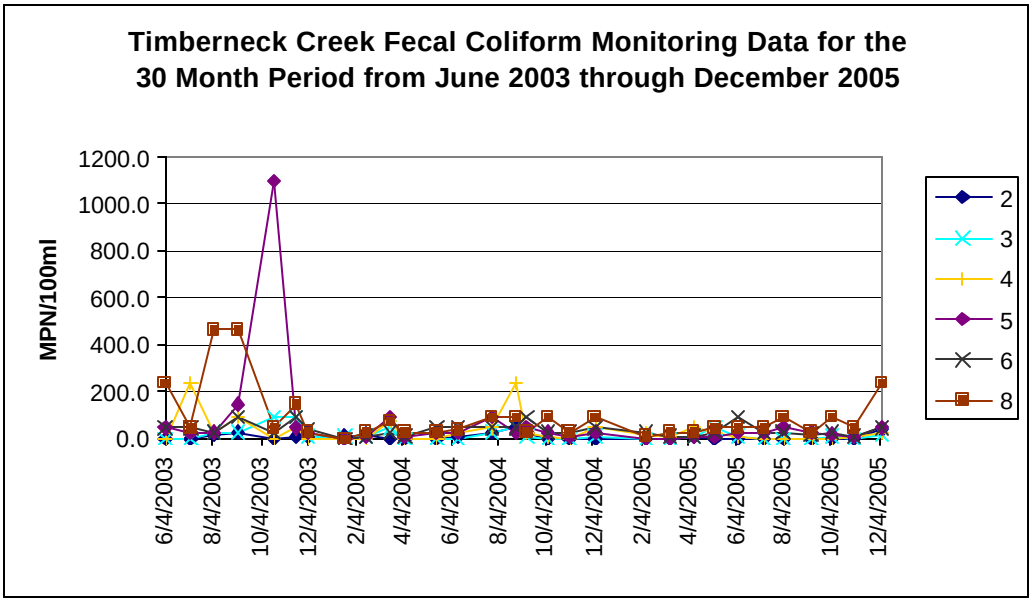


Figure 4.3D

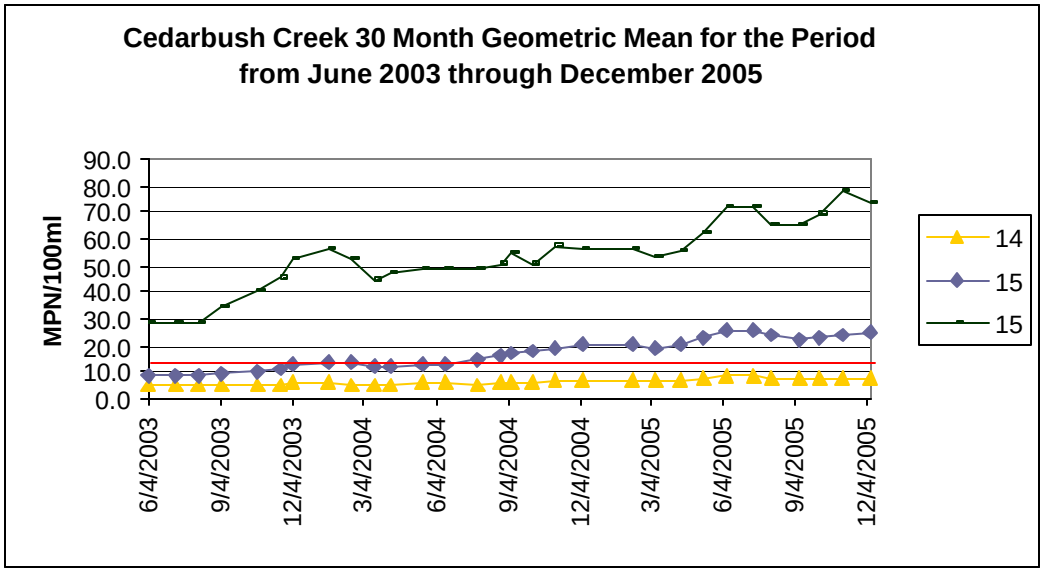


Figure 4.3E

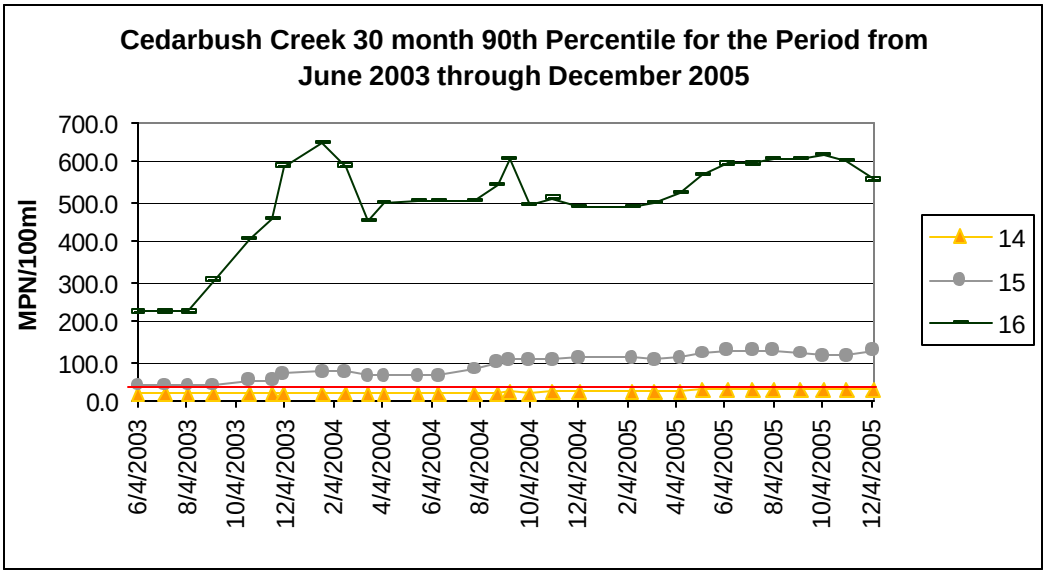
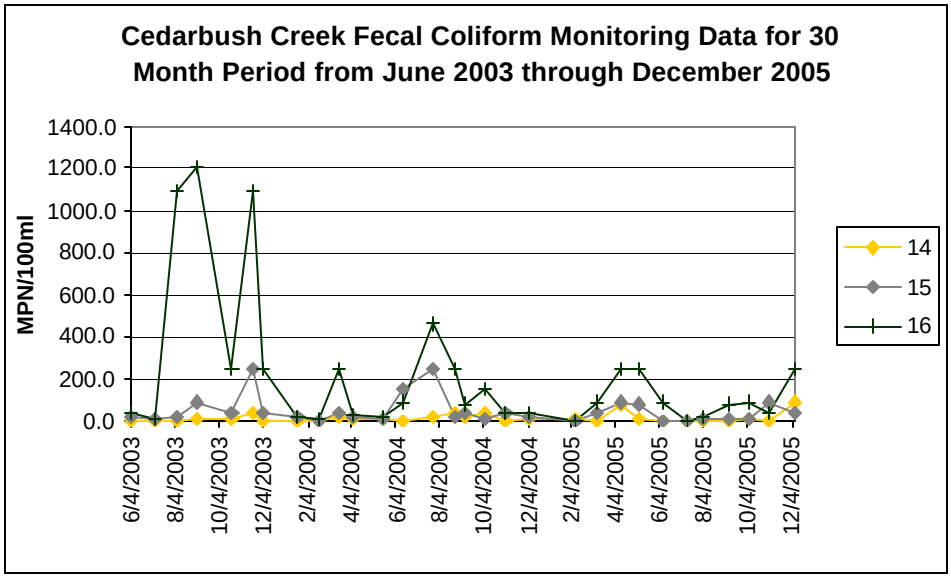


Figure 4.3F



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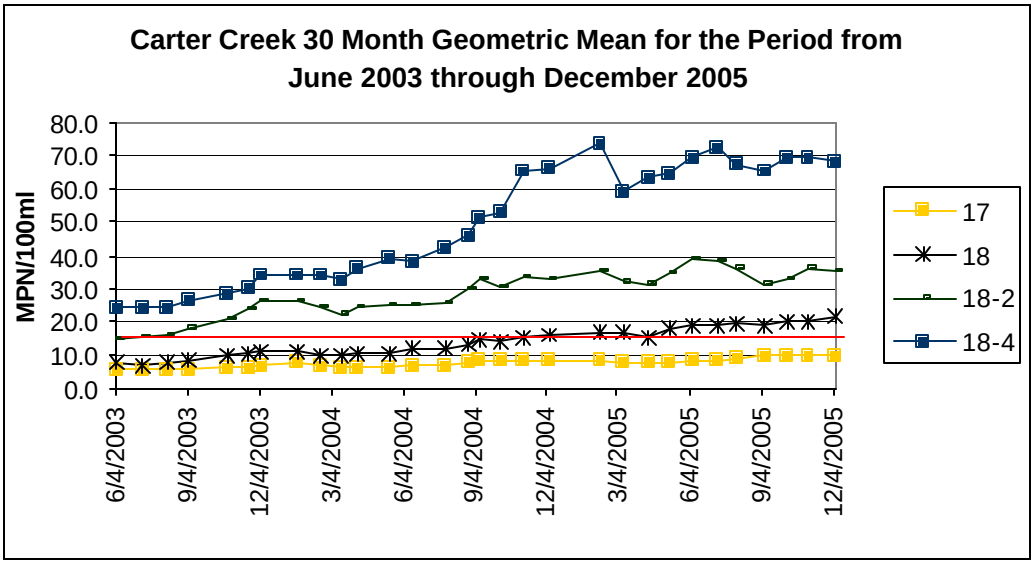


Figure 4.3H

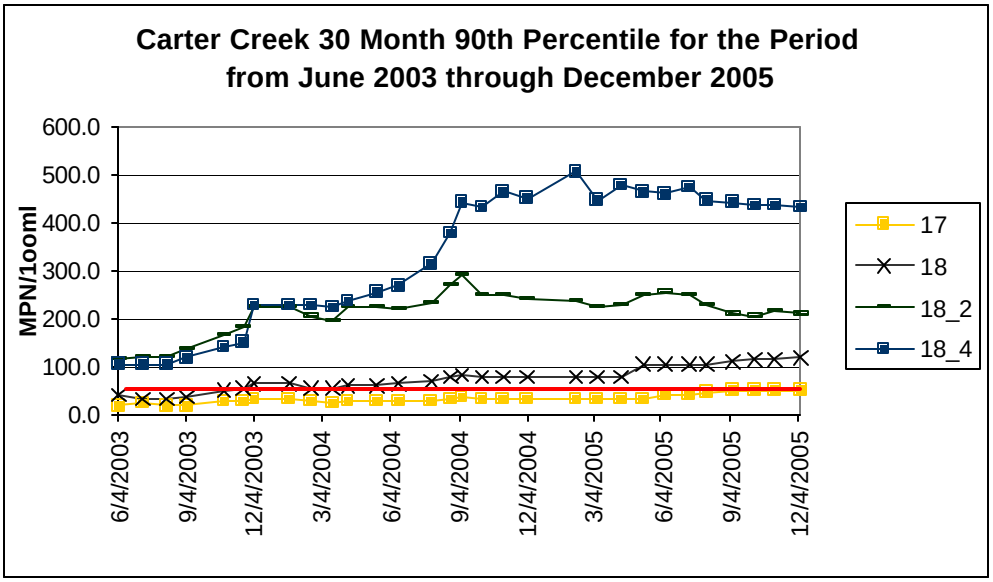


Figure 4.3I

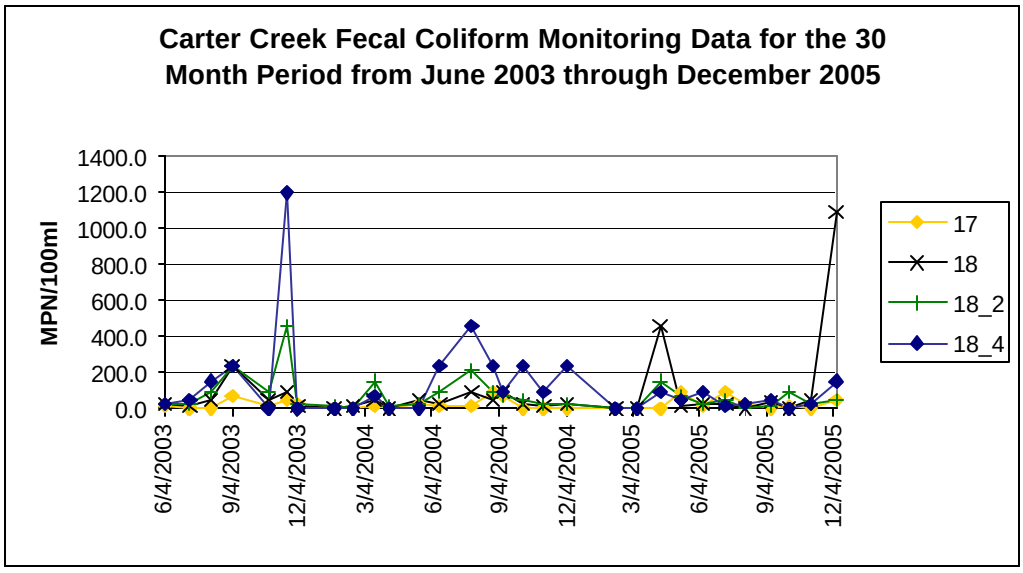


Figure 4.3J

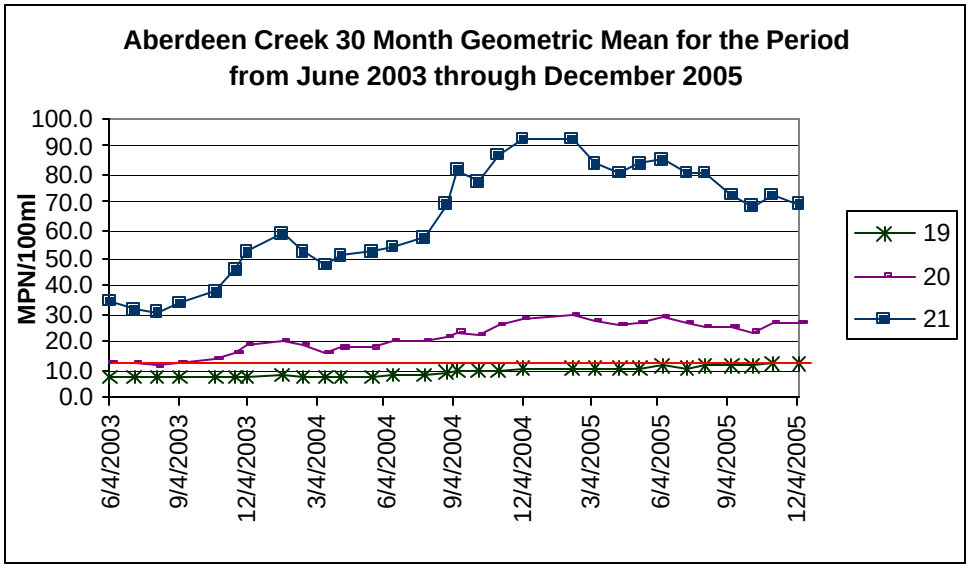


Figure 4.3K

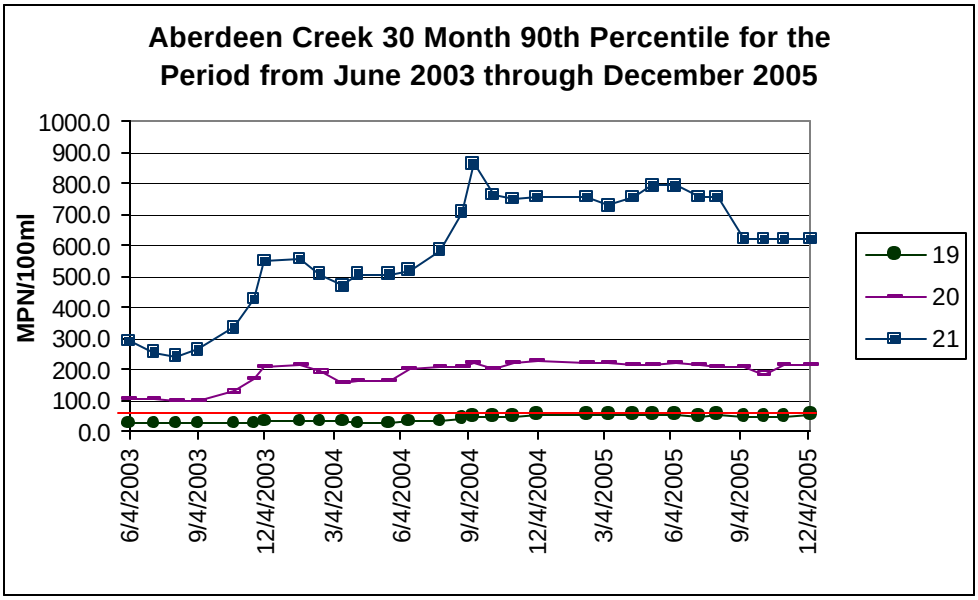


Figure 4.3L

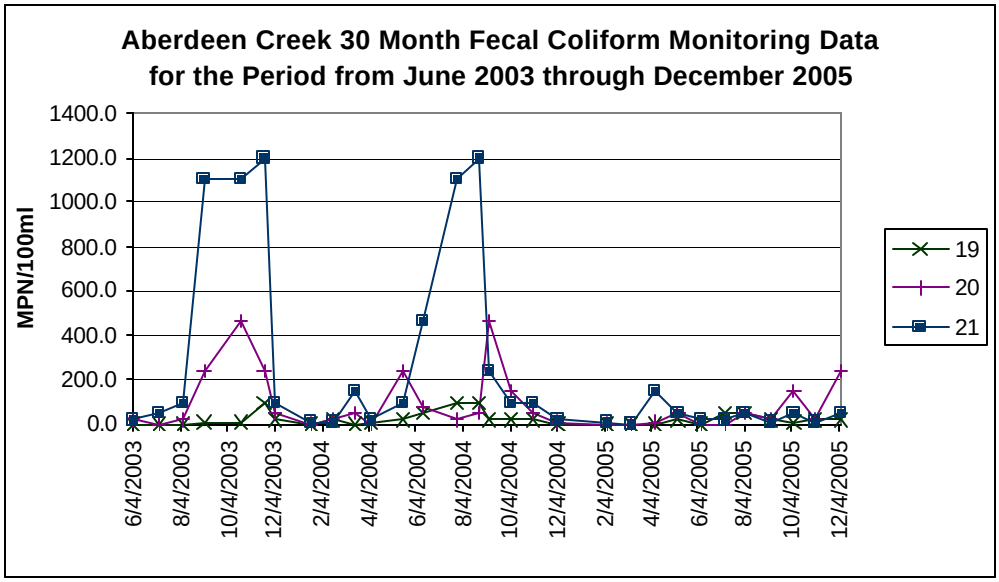
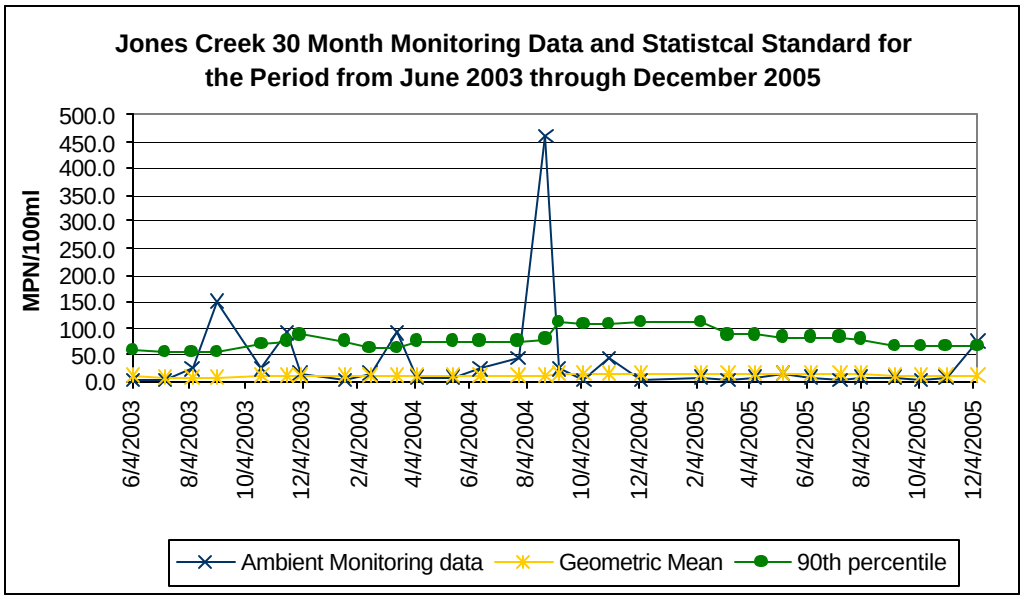


Figure 4.3M



4.2 Condemnation Areas

Five segments, comprised of portions of Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47 and 47A were listed as impaired on Virginia's 1998 303(d) water quality standard for fecal coliform bacteria in shellfish supporting waters. Detailed maps of the shellfish condemnation areas and their associated water quality stations are available from the Virginia Department of health, Division of Shellfish Sanitation. A map of the condemnation areas is shown in Figure 4.2. Copies of the condemnation notices may be found in Appendix A.

4.3 Fecal Coliform Bacteria Source Assessment

The locations of shoreline deficiencies from the DSS shoreline survey are shown in Figure 4.4. A copy of the most recent sanitary shoreline survey may be found in Appendix A,

A. Point Source

There are no VPDES permitted wastewater treatment plant point source contributions of bacteria to the harvestable shellfish areas in the watershed.

B. Non-Point Source Contributions

Nonpoint sources of fecal coliform do not have one discharge point but may occur over the entire length of the receiving water. Fecal coliform bacteria deposited on the land surface can build up over time. During rain events, surface runoff transports water and sediment and discharges to the waterway. Sources of fecal coliform bacteria include grazing livestock, concentrated animal feeding operations, manure application and wildlife and pet excretion. Direct contribution to the waterway occurs when livestock or wildlife defecate into or immediately adjacent to receiving waters. Nonpoint source contributions from humans generally arise from failing septic systems and associated drain fields, moored or marina vessel discharges, storm water management facilities, pump station failures and ex-filtration from sewer systems. Contributions from wildlife, both mammalian and avian, are natural conditions and may represent a background level of bacterial loading. It is therefore likely that human loading is due to failures in septic waste treatment systems and/or potential pollution from recreational vessel discharges.

The shoreline survey is used as a tool to identify non-point source contribution problems and locations. Figure 4.4 shows the results of the DSS sanitary shoreline survey for November 2004. A copy of the textual portion of this survey has been included as Appendix A. The survey identified 50 deficiencies. Twenty were on-site sewage deficiencies, 8 were related to boating, 8 were potential pollution, 2 were solid waste dumpsites, 11 were related to animal pollution, and 1 was associated with industrial facilities. The number of deficiencies displayed on the map may not agree with the total because of the scale of the map and the possibility of multiple deficiencies at one location.

4.5 Bacterial Source Tracking

Bacterial Source tracking is used to identify sources of fecal contamination from human as well as domestic and wild animals. The BST method used in Virginia is based on the premise that *Escherichia coli (E. Coli)* found in human, domestic animal, and wild animals will have significantly different patterns of resistance to a variety of antibiotics. The Antibiotic Resistance Approach (ARA), uses fecal streptococcus or *E. coli* and patterns of antibiotic resistance for separation of sources of the bacterial contribution. The BST analysis used for this TMDL classified the bacteria into one of four source categories: human, pets, livestock, and wildlife. However, BST analysis is an experimental, not approved, technique that is under evaluation and the error involved in correctly assigning *E. coli* isolates to the appropriate fecal sources is unknown.

Figure 4.1A and B show the TMDL study stations in each of the two shellfish growing areas. There is one BST monitoring station for each of the sub-watersheds. The data developed for the watershed shows the dominant contribution in all of the sub-watersheds is human followed by pets and livestock. Wildlife is a relatively minor component. Figures 4.5A through 4.5E show the mean distribution by month for the source categories and the annual means are shown in Figures 4.6A through 4.6E. The BST sampling period was October 2003 through September 2004. The target sampling interval was once monthly, if the graph does not show at least 11 months, that means that there were months for which data was not available, or no bacteria could be isolated. This data is shown in tabular form in Table 4.2. These values are used for the source allocation in deriving the Total Maximum Daily Loads for the Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47 and 47A.

5.0 TMDL Development

5.1 Simplified Modeling Approach (Volumetric Model):

Personnel from EPA, Virginia DEQ, Virginia Department of Conservation and Recreation (DCR), Maryland Department of the Environment (MDE), Virginia DSS, Virginia Institute of Marine Sciences (VIMS), United States Geological Survey, Virginia Polytechnic University, James Madison University, and Tetra Tech composed the shellfish TMDL workgroup and developed a procedure for developing TMDLs using either a simplified approach to the development of the TMDL. The goal of the procedure is to use bacteriological source tracking (BST) data to determine the sources of fecal coliform violations and the load reductions needed to attain the applicable criteria.

5.2 The TMDL Calculation

To meet the water quality standards for both geometric mean and 90^{th} percentile criteria, TMDLs for the impaired segments in the watershed are defined for the geometric mean load and the 90^{th} percentile load. The TMDL for the geometric mean essentially represents the allowable average limit and the TMDL for the 90^{th} percentile is the allowable upper limit.

Figure 4.4

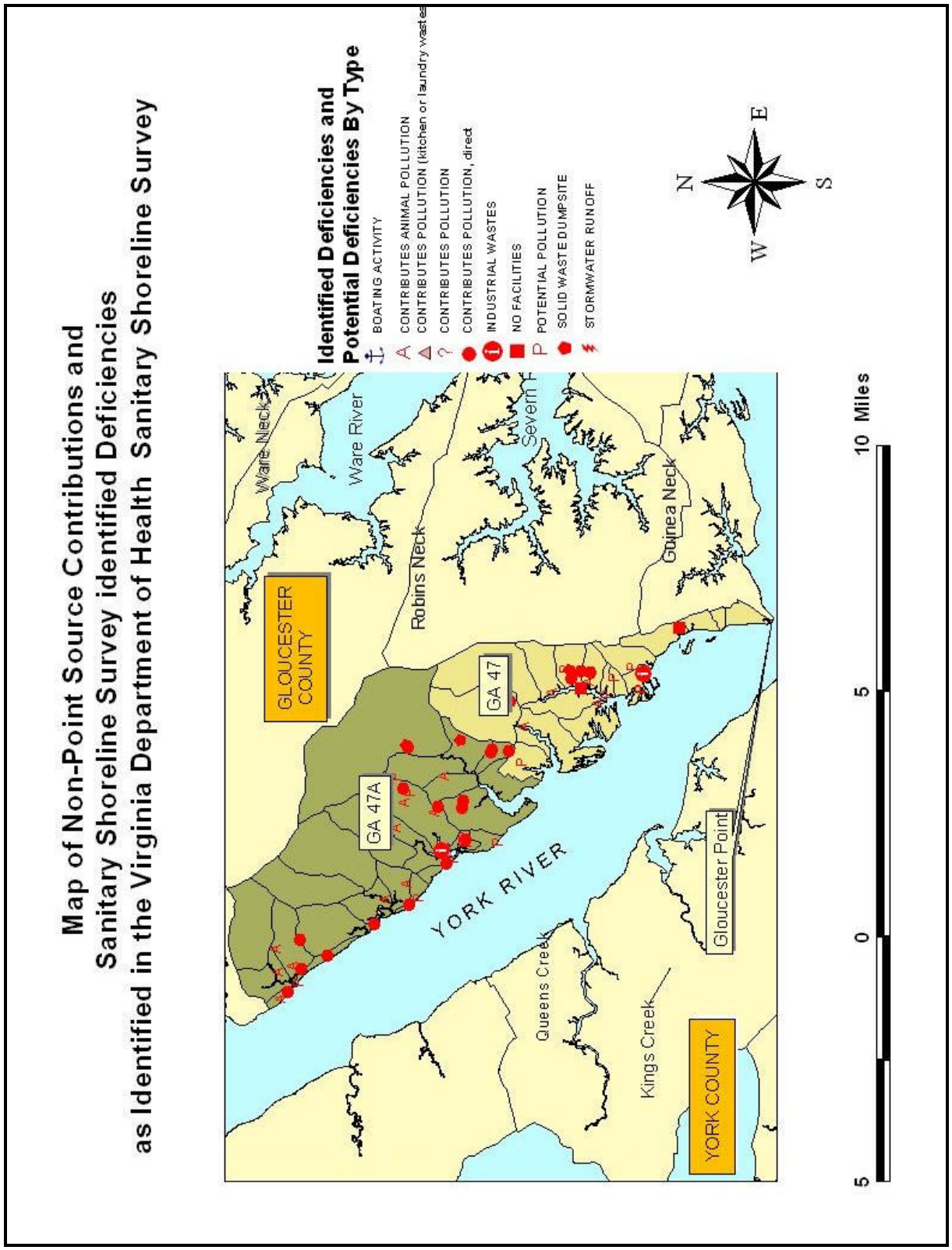

Map of Non-Point Source Contributions and
Sanitary Shoreline Survey identified Deficiencies
as Identified in the Virginia Department of Health Sanitary Shoreline Survey
Identified Deficiencies and
Potential Deficiencies By Type
BOATING ACTIVITY
CONTRIBUTES ANIMAL POLLUTION
CONTRIBUTES POLLUTION (kitchen or laundry wastes
CONTRIBUTES POLLUTION
CONTRIBUTES POLLUTION, direct
INDUSTRIAL WASTES
NO FACILITIES
POTENTIAL POLLUTION
SOLID WASTE DUMPSITE
STORMWATER RUNOFF
N
E
W
S
GLOUCESTER COUNTY
GA 47A
GA 47
Ware Neck
Ware River
Robins Neck
Severn R
Guinea Neck
YORK RIVER
Queens Creek
Kings Creek
Gloucester Point
YORK COUNTY
5
0
5
10 Miles

Figure 4.5A

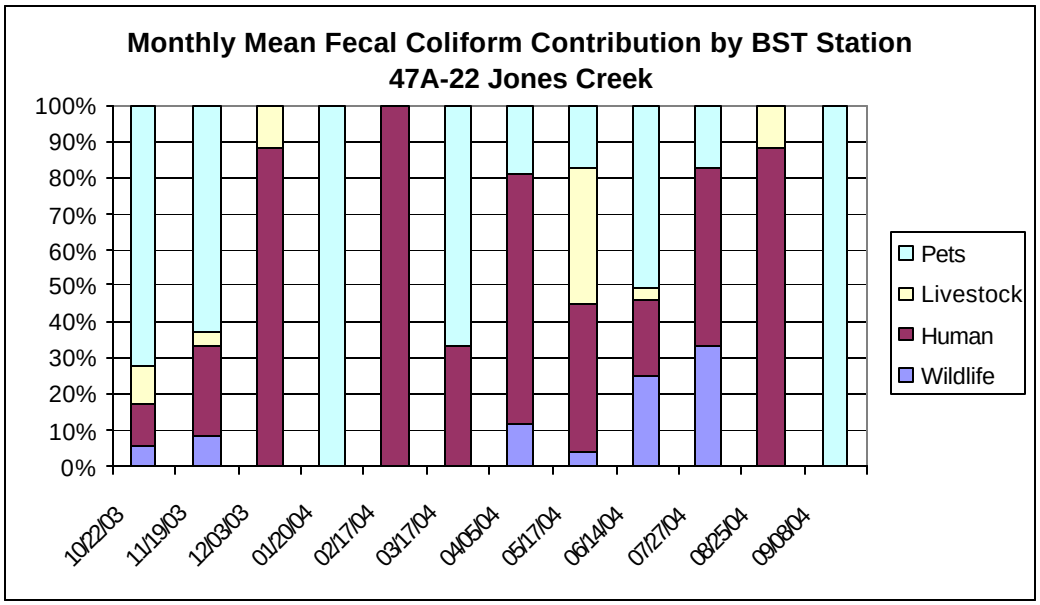


Figure 4.5B

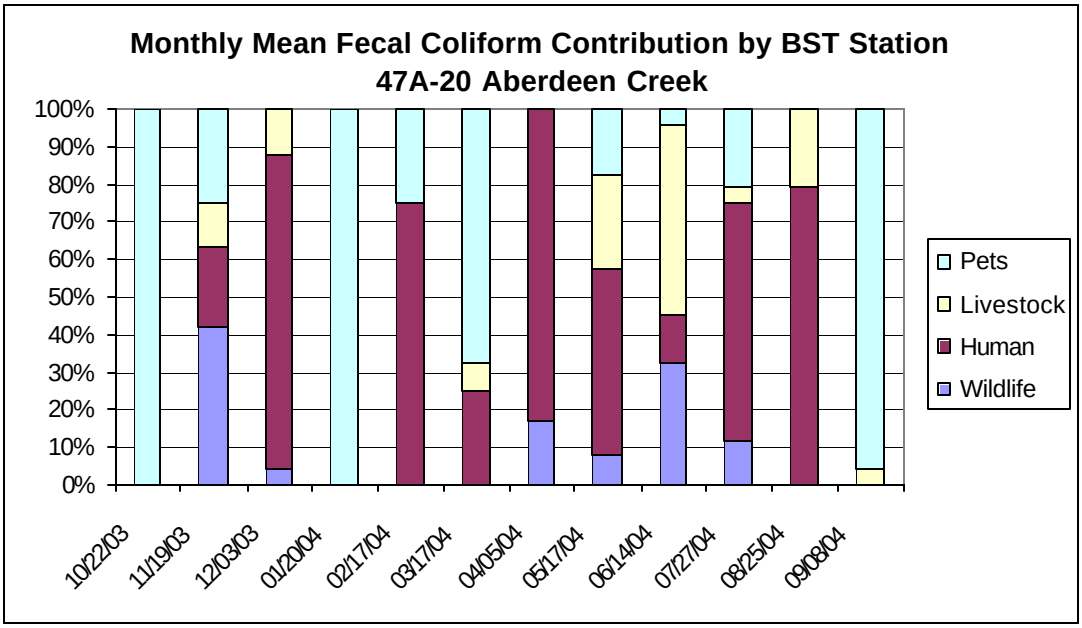


Figure 4.5C

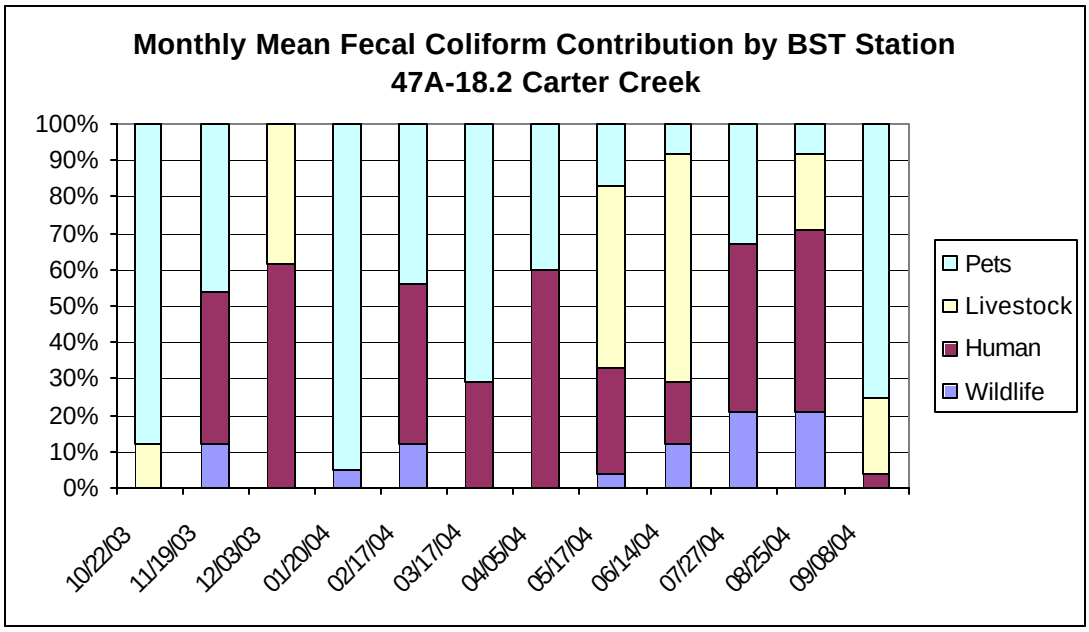


Figure 4.5D

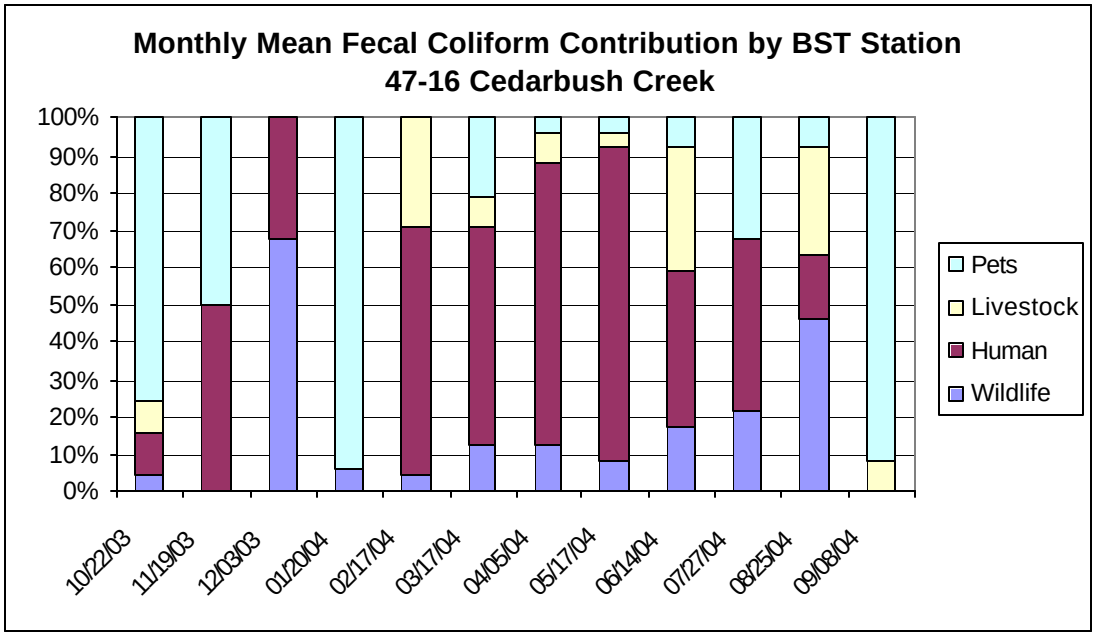


Figure 4.5E

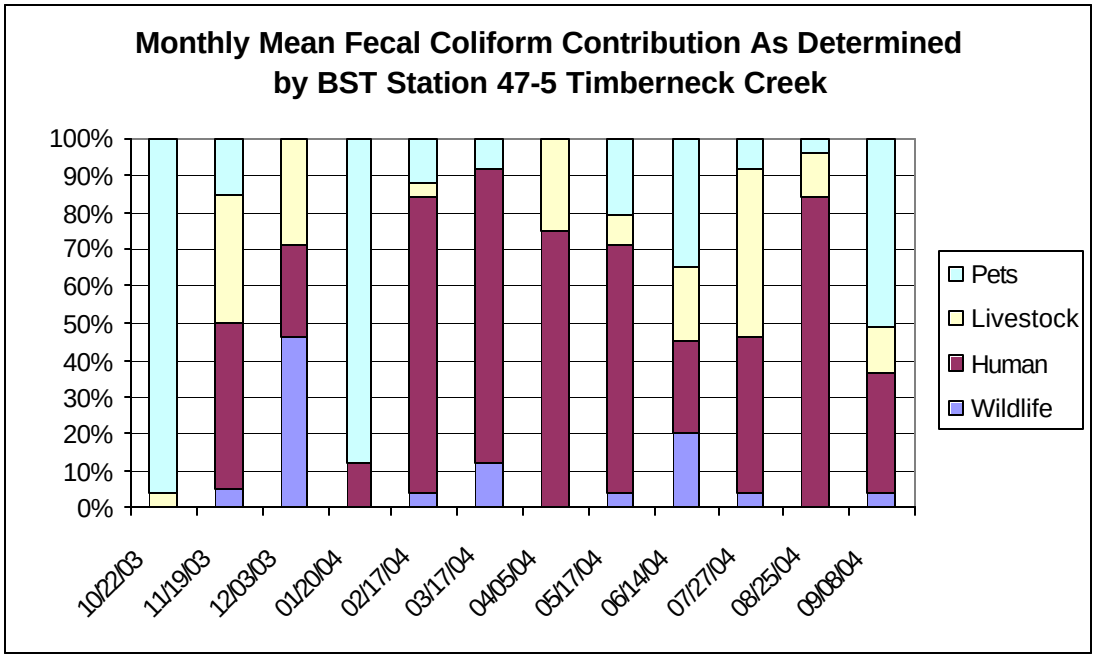


Figure 4.6A

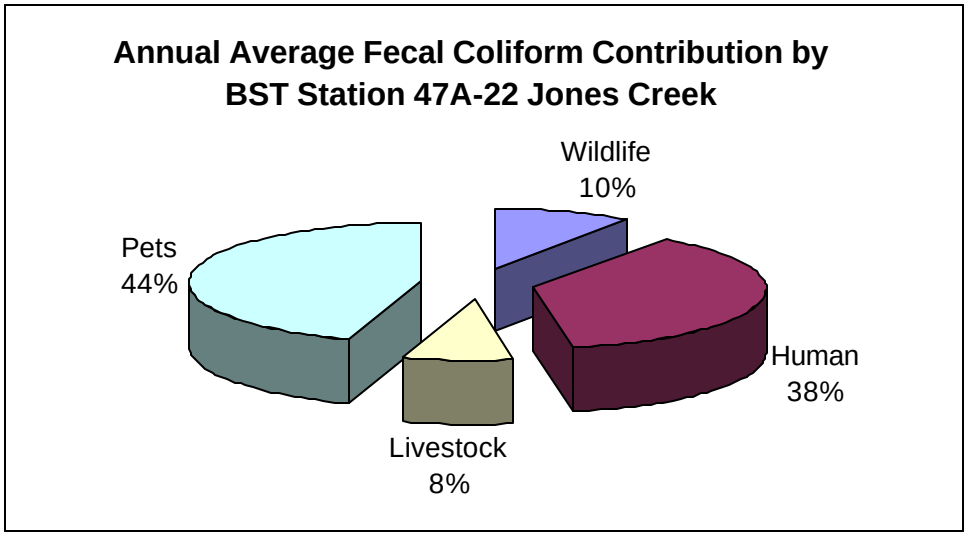


Figure 4.6B

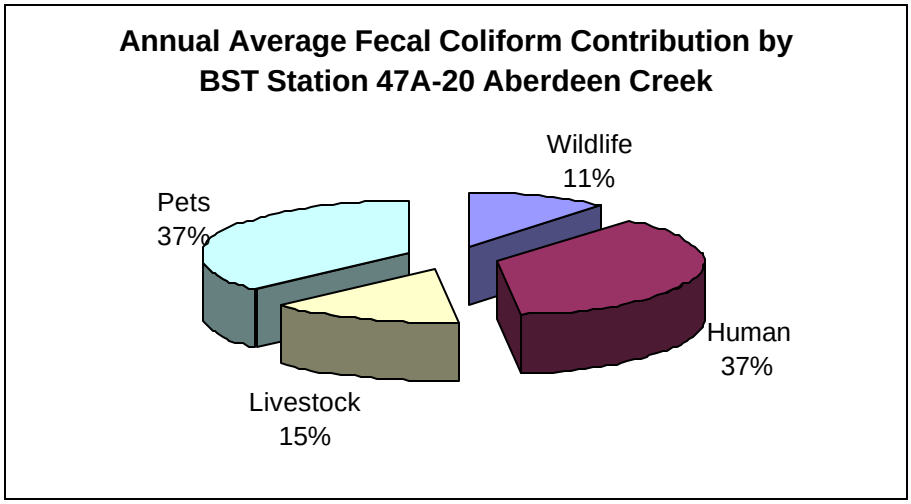


Figure 4.6C

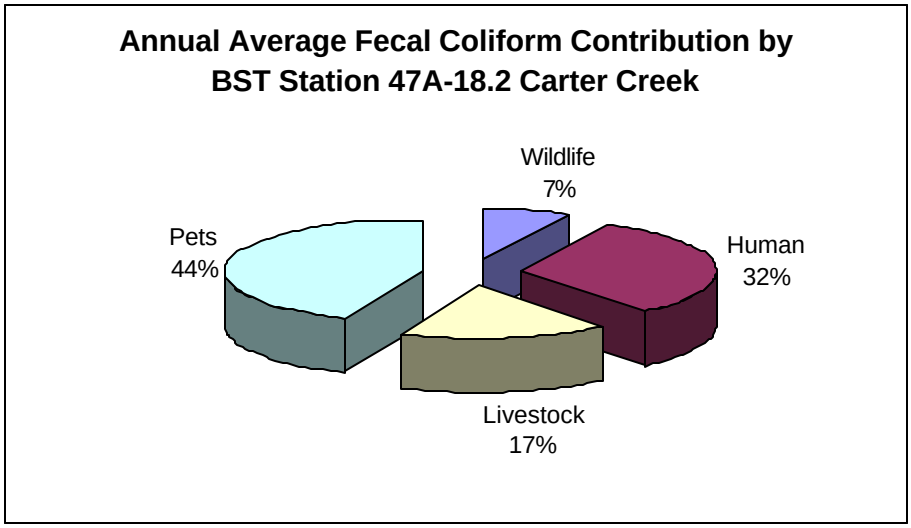


Figure 4.6D

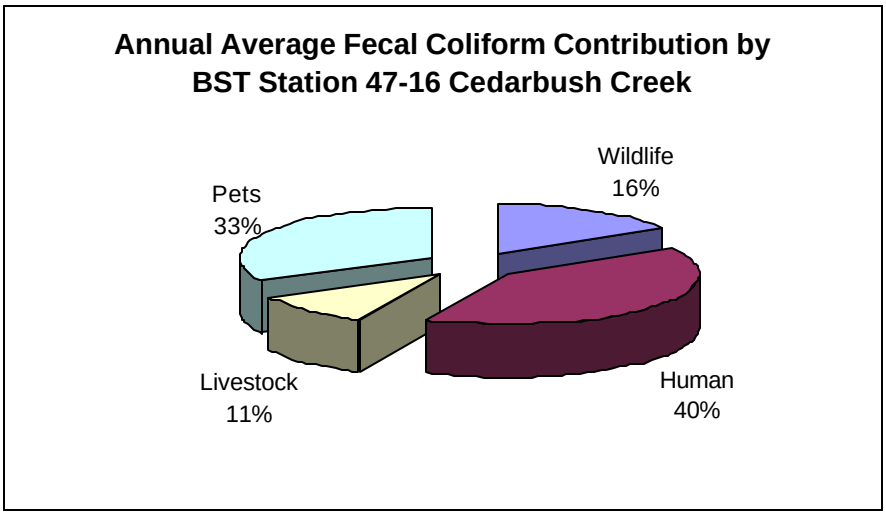


Figure 4.6E

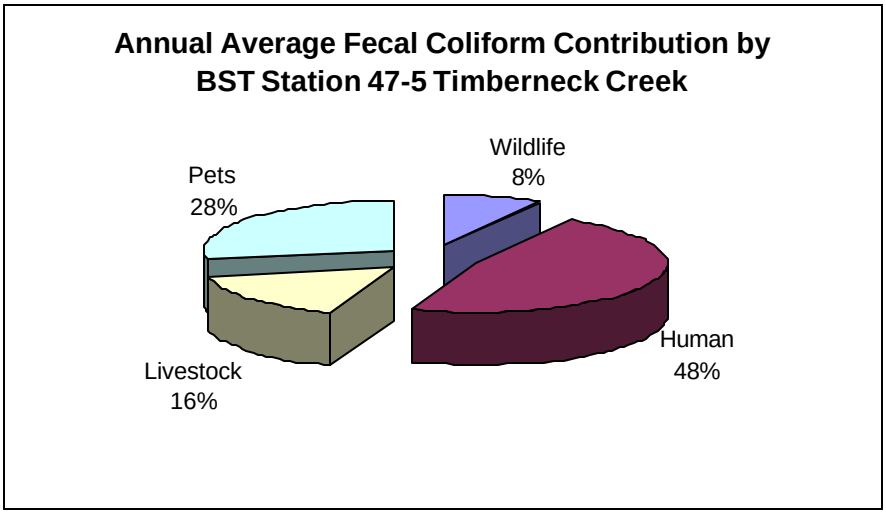


Table 4.2 Non-point Source Load Distribution using Annual Average BST Growing area 47 and 47A: York River; Timberneck Creek to Jones Creek

Condemnation Area	Wildlife	Human	Livestock	Pets
47A-115A Jones Creek	10%	38%	8%	44%
47A-78* Aberdeen Creek	11%	37%	15%	37%
47A-108* Carter Creek	7%	32%	17%	44%
47-107* Cedarbush Creek	16%	41%	11%	33%
47-3 Timberneck Creek	8%	48%	16%	28%

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

A. Current Fecal Coliform Condition

The fecal coliform concentration in an embayment varies due to the changes in biological, hydrological and meteorological conditions. The current condition was determined based on the 30-sample geometric mean and 90th percentile of fecal coliform values of each condemned area. The period of record for the monitoring data used to determine the current condition is 2003 to 2005. The maximum values for geometric mean and 90th percentile were used to represent the current loads. Therefore, the current loads represent the worse case scenario.

B. Geometric Mean Analysis:

The current 30-sample geometric mean was used for the load estimation. The current load was estimated using a simple volumetric model. The allowable load was calculated using the water quality standard of 14 MPN/100ml. This value was also used as boundary condition for the calculation. The load reduction needed for the attainment of the water quality standard was determined by subtracting the allowable load from the current load. The process may be described by the word equation as follows. The calculated results are listed in table 5-2.

The load reduction is estimated as follows:

Geometric Mean Value (X MPN/100ml) x (volume) = Existing Load

Criteria Value (14 MPN/100ml) x (volume) = Allowable Load

$$\textbf{Load Reduction} = \frac{\textbf{Current Load} - \textbf{Allowable Load}}{\textbf{Current Load}} \times 100\ \%$$

Table 5.1 Geometric Mean Analysis of Current Load and Estimated Load Reduction

Condemnation Area	Volume (m^3)	Fecal Coliform (MPN/100ml)	WQ Standard MPN/100 ml	Current Load (MPN/day)	Allowable Load (MPN/day)	Required Reduction (%)
47A-115A Jones Creek (VAT-F26E-13)	42660	13.0	14	5.55E+09	5.97E+09	0%
47A-78 Aberdeen Creek (VAT-F26E-15)	54270	69.2	14	3.76E+10	7.60E+09	80%
47A-108 Carter Creek (VAT-F26E-18)	123750	67.9	14	8.40E+10	1.73E+10	79%
47-107 Cedarbush Creek (VAT-F26E-17)	56520	73.4	14	4.15E+10	7.91E+09	81%
47-3 Timberneck Creek (VAT-F26E-16)	214560	47.4	14	1.02E+11	3.00E+10	70%

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

C. 90th Percentile Analysis

The current 30-sample 90th percentile concentration was used for load estimation. The current load was estimated using a simple volumetric model. The allowable load was calculated based on the water quality standard of 49 MPN/100ml. The calculated results are listed in Table 5-3.

The load reduction is estimated as follows:

$$\text{Load Reduction} = \frac{\text{Current Load} - \text{Allowable Load}}{\text{Current Load}} \times 100\ \%$$

Table 5.2 90th Percentile Analysis of Current Load and Estimated Load Reduction

Condemnation Area	Volume (m^3)	*Fecal Coliform (MPN/100ml)	WQ Standard MPN/100ml	Current Load (MPN/day)	Allowable Load (MPN/day)	Required Reduction (%)
47A-115A Jones Creek (VAT-F26E-13)	42660	67.8	49	2.89E+10	2.09E+10	28%
47A-78 Aberdeen Creek (VAT-F26E-15)	54270	620.3	49	3.37E+11	2.66E+10	92%
47A-108 Carter Creek (VAT-F26E-18)	123750	433.8	49	5.37E+11	6.06E+10	89%
47-107 Cedarbush Creek (VAT-F26E-17)	56520	554.1	49	3.13E+11	2.77E+10	91%
47-3 Timberneck Creek (VAT-F26E-16)	214560	184.0	49	3.95E+11	1.05E+11	73%

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

5.3 Load Allocation

A comparison of the reductions based on geometric mean load and on the 90th percentile load shows that the 90th percentile load is the critical condition for Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47 and 47A. This is consistent with water quality analysis. The 90th percentile criterion is most frequently exceeded. Therefore the 90th percentile loading is used to allocate source contributions and establish load reduction targets among the various contributing sources that will yield the necessary water quality improvements to attain the water quality standard in the creeks in Growing Area 47 and 47A.

Based on source assessment of the watershed, the percent loading for each of the major source categories is estimated. These percentages are used to determine where load reductions are needed. The loadings for each source are determined by multiplying the total current and allowable loads by

Table 5.3 Reduction and Allocation Based Upon 90th Percentile Standard Criterion: Growing Area 47

Condemnation Area	Source	BST Allocation % of Total Load	Current Load MPN/ day	Load Allocation MPN/ day	Reduction Needed
47A-115A Jones Creek (VAT-F26E-13)	Wildlife	10%	2.89E+09	2.89E+09	0%
	Human	38%	1.10E+10	0.00E+00	100%
	Livestock	8%	2.31E+09	2.31E+09	0%
	Pets	44%	1.27E+10	1.27E+10	0%
	Total	**100%**	**2.89E+10**	**2.09E+10**	**28%**
47A-78 Aberdeen Creek (VAT-F26E-15)	Wildlife	11%	3.71E+10	2.66E+10	28%
	Human	37%	1.25E+11	0.00E+00	100%
	Livestock	15%	5.06E+10	0.00E+00	100%
	Pets	37%	1.25E+11	0.00E+00	100%
	Total	**100%**	**3.37E+11**	**2.66E+10**	**92%**
47A-108 Carter Creek (VAT-F26E-18)	Wildlife	7%	3.76E+10	3.76E+10	0%
	Human	32%	1.72E+11	0.00E+00	100%
	Livestock	17%	9.13E+10	2.30E+10	75%
	Pets	44%	2.36E+11	0.00E+00	100%
	Total	**100%**	**5.37E+11**	**6.06E+10**	**89%**
47-107 Cedarbush Creek (VAT-F26E-17)	Wildlife	16%	5.01E+10	2.77E+10	45%
	Human	41%	1.28E+11	0.00E+00	100%
	Livestock	11%	3.44E+10	0.00E+00	100%
	Pets	33%	1.03E+11	0.00E+00	100%
	Total	**100%**	**3.13E+11**	**2.77E+10**	**91%**
47-3 Timberneck Creek (VAT-F26E-16)	Wildlife	8%	3.16E+10	3.16E+10	0%
	Human	48%	1.90E+11	0.00E+00	100%
	Livestock	16%	6.32E+10	0.00E+00	100%
	Pets	28%	1.11E+11	7.30E+10	34%
	Total	**100%**	**3.95E+11**	**1.05E+11**	**73%**

the representative percentage. The percent reduction needed to attain the water quality standard or criterion is allocated to each source category. This is shown in Table 5-4 and serves to fulfill the TMDL requirements by ensuring that the criterion is attained. The TMDL seeks to eliminate 100% of the human derived fecal component regardless of the allowable load determined through the load allocation process. Human derived fecal coliforms are a serious concern in the estuarine environment and discharge of untreated human waste is precluded by state and federal law. According to the preceding analysis, reduction of the controllable loads; human, livestock and pets, will result in achievement of the water quality standard for all condemned areas except 47A-78 and 47-107 where reductions in wildlife populations are indicted as potentially being necessary to achieve water quality standards. Through an iterative implementation of actions to reduce the controllable loads, subsequent

monitoring may indicate that further reductions are not necessary, or that revisions in implementation strategies may be appropriate. Continued violations may result in the process of Use Attainment Analysis, UAA, for the water body (see Chapter 6 for a discussion of UAA). The allocations presented demonstrate how the TMDLs could be implemented to achieve water quality standards; however, the state reserves the right to allocate differently, as long as consistency with the achievement of water quality standards is maintained.

5.3.1 Development of Waste load Allocations

There are no permitted point source discharges that affect the harvestable shellfish waters in the watershed. No waste load is considered in this TMDL.

5.4 Consideration of Critical Conditions and Seasonal Variation

EPA regulations at 40 CFR 130.7 (c) (1) requires TMDLs to take into account critical conditions for stream flow, loading, and water quality parameters. The intent of this requirement is to ensure that the water quality of the water body is protected during times when they are most vulnerable.

Critical conditions are important because they describe the factors that combine to cause a violation of water quality standards and will help in identifying the actions that may have to be undertaken to meet water quality standards. The current loading to the water body was determined using a long-term record of water quality monitoring (observation) data. The period of record for the data was 1995 to 2002. The resulting estimate is quite robust.

A comparison of the geometric mean values and the 90^{th} percentile values against the water quality criteria will determine which represents the more critical condition or higher percent reduction. If the geometric mean values dictate the higher reduction, this suggests that, on average, water sample counts are consistently high with limited variation around the mean. If the 90^{th} percentile criterion requires a higher reduction, this suggests an occurrence of the high fecal coliform due to the variation of hydrological conditions. For this study, the 90^{th} percentile criterion is the most critical condition. Thus, the final load reductions determined using the 90^{th} percentile represents the most stringent conditions and it is the reductions based on these bacterial loadings that will yield attainment of the water quality standard. Seasonal variations involve changes in surface runoff, stream flow, and water quality as a result of hydrologic and climatologic patterns. Variations due to changes in the hydrologic cycle as well as temporal variability in fecal coliform sources, such as migrating duck and goose populations are accounted for by the use of the long-term data record to estimate the current load.

5.5. Margin of Safety

A Margin of Safety (MOS) is required as part of a TMDL in recognition of uncertainties in the understanding and simulation of water quality in natural systems. For example, knowledge is incomplete regarding the exact nature and magnitude of pollutant loads from various sources and the specific impacts of those pollutants on the chemical and biological quality of complex, natural water bodies. The MOS is intended to account for such uncertainties in a manner that is conservative from the standpoint of environmental protection. . Due to the very conservative assumptions made in this modeling effort the margin of safety is considered to be implicit in the load allocations the model establishes.

5.6 TMDL Summary

To meet the water quality standards for both geometric mean and 90th percentile criteria, TMDLs for the Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47and 47A are defined for the geometric mean load and the 90th percentile load. The TMDLs are summarized in the table 5.4 and 5.5.

Table 5.4 TMDL Summary for Five Closures From Timberneck Creek to Jones Creek Watersheds on the York River Growing Area 47 and 47A (geometric mean)

Condemnation Area	Pollutant Identified	TMDL MPN/100ml	Waste Load Allocation MPN/day	Load Allocation MPN/day	Margin of Safety
47A-115A Jones Creek (VAT-F26E-13)	Fecal Coliform	**14**	N/A	**5.97E+09**	Implicit
47A-78* Aberdeen Creek (VAT-F26E-15)	Fecal Coliform	**14**	N/A	**7.60E+09**	Implicit
47A-108* Carter Creek (VAT-F26E-18)	Fecal Coliform	**14**	N/A	**1.73E+10**	Implicit
47-107* Cedarbush Creek (VAT-F26E-17)	Fecal Coliform	**14**	N/A	**7.91E+09**	Implicit
47-3 Timberneck Creek (VAT-F26E-16)	Fecal Coliform	**14**	N/A	**3.00E+10**	Implicit

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

6.0 TMDL Implementation

The goal of the TMDL program is to establish a three-step path that will lead to attainment of water quality standards. The first step in the process is to develop TMDLs that will result in meeting water quality standards. This report represents the culmination of that effort for the bacteria impairments in the Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47 and 47A. The second step is to develop a TMDL implementation plan. The final step is to implement the TMDL implementation plan, and to monitor water quality to determine if water quality standards are being attained.

Once a TMDL has been approved by EPA, measures must be taken to reduce pollution levels in the water body. These measures, which can include the use of better treatment technology and the installation of best management practices (BMPs), are implemented in an iterative process that is described along with specific BMPs in the implementation plan. The process for developing an implementation plan has been described in the recent "TMDL Implementation Plan Guidance

Table 5.5 TMDL Summary for Five Closures From Timberneck Creek to Jones Creek Watersheds on the York River Growing Area 47 and 47A (90th percentile)

Condemnation Area	Pollutant Identified	TMDL MPN/100ml	Waste Load Allocation MPN/day	Load Allocation MPN/day	Margin of Safety
47A-115A Jones Creek (VAT-F26E-13)	Fecal Coliform	**49**	N/A	**2.09E+10**	Implicit
47A-78* Aberdeen Creek (VAT-F26E-15)	Fecal Coliform	**49**	N/A	**2.66E+10**	Implicit
47A-108* Carter Creek (VAT-F26E-18)	Fecal Coliform	**49**	N/A	**6.06E+10**	Implicit
47-107* Cedarbush Creek (VAT-F26E-17)	Fecal Coliform	**49**	N/A	**2.77E+10**	Implicit
47-3 Timberneck Creek (VAT-F26E-16)	Fecal Coliform	**49**	N/A	**1.05E+11**	Implicit

*** Condemnation area numbering was changed in June 2006, Aberdeen Creek is now 47-78A, Carter Creek is now 47-78B and Cedarbush Creek is now 47-78C.**

Manual", published in July 2003 and available upon request from the DEQ and DCR TMDL project staff or at http://www.deq.virginia.gov/tmdl/implans/ipguide.pdf. With successful completion of Implementation plans, Virginia will be well on the way to restoring impaired waters and enhancing the value of this important resource. Additionally, development of an approved implementation plan will improve a locality's chances for obtaining financial and technical assistance during implementation.

6.1 Staged Implementation

In general, Virginia intends for the required reductions to be implemented in an iterative process that first addresses those sources with the largest impact on water quality. For example, in agricultural areas of the watershed, the most promising management practice is livestock exclusion from water bodies. This has been shown to be very effective in lowering fecal coliform concentrations in water bodies, both by reducing the cattle deposits themselves and by providing additional riparian buffers.

Additionally, in both urban and rural areas, reducing the human fecal loading from failing septic systems should be a primary implementation focus because of its health implications. This component could be implemented through education on septic tank pump-outs as well as a septic system repair/replacement program and the use of alternative waste treatment systems. In urban areas, reducing the loading from leaking sewer lines could be accomplished through a sanitary sewer inspection and management program.

The iterative implementation of BMPs in the watershed has several benefits:

1. It enables tracking of water quality improvements following BMP implementation through follow-up monitoring;
2. It provides a measure of quality control, given the uncertainties inherent in computer simulation modeling;
3. It provides a mechanism for developing public support through periodic updates on BMP implementation and water quality improvements;
4. It helps ensure that the most cost effective practices are implemented first; and
5. It allows for the evaluation of the adequacy of the TMDL in achieving water quality standards.

Watershed stakeholders will have opportunity to participate in the development of the TMDL implementation plan. Specific goals for BMP implementation will be established as part of the implementation plan development.

6.2 Link to ongoing Restoration Efforts

Implementation of this TMDL will contribute to on-going water quality improvement efforts aimed at restoring water quality in the Chesapeake Bay. Other TMDLs have been developed for impaired shellfish waters in Gloucester County in Mobjack Bay a tributary to the Chesapeake Bay. In the York River drainage TMDLs include Sarah Creek and the Perrin River. Reports for these TMDLS are available at the Department of Environmental Quality website http://www.deq.virginia.gov/tmdl/. A tributary strategy has been developed for the York River Basin. Up-to-date information on tributary strategy development can be found at http://www.snr.virginia.gov/Initiatives/TributaryStrategies/york.cfm.

6.3 Reasonable Assurance for Implementation

6.3.1 Follow-Up Monitoring

VDH-DSS will continue sampling at the established bacteriological monitoring stations in accordance with its shellfish monitoring program. VADEQ will continue to use data from these monitoring stations and related ambient monitoring stations to evaluate improvements in the bacterial community and the effectiveness of TMDL implementation in attainment of the general water quality standard.

6.3.2. Regulatory Framework

While section 303(d) of the Clean Water Act and current EPA regulations do not require the development of TMDL implementation plans as part of the TMDL process, they do require reasonable assurance that the load and waste load allocations can and will be implemented. Additionally, Virginia's 1997 Water Quality Monitoring, Information and Restoration Act (the "Act") directs the State Water Control Board to "develop and implement a plan to achieve fully supporting status for impaired waters" (Section 62.1-44.19.7). The Act also establishes that the implementation plan shall include the date of expected achievement of water quality objectives, measurable goals, corrective actions necessary and the associated costs, benefits and environmental impacts of addressing the impairments. EPA outlines the minimum elements of an approvable implementation plan in its 1999 "Guidance for Water Quality-Based Decisions: The TMDL Process." The listed elements include implementation actions/management measures, timelines, legal or regulatory controls, time required to attain water quality standards, monitoring plans and milestones for attaining water quality standards.

Once developed, DEQ intends to incorporate the TMDL implementation plan into the appropriate Water Quality Management Plan (WQMP), in accordance with the Clean Water Act's Section 303(e). In response to a Memorandum of Understanding (MOU) between EPA and DEQ, DEQ also submitted a draft Continuous Planning Process to EPA in which DEQ commits to regularly updating the WQMPs. Thus, the WQMPs will be, among other things, the repository for all TMDLs and TMDL implementation plans developed within a river basin.

6.3.3. Implementation Funding Sources

One potential source of funding for TMDL implementation is Section 319 of the Clean Water Act. Section 319 funding is a major source of funds for Virginia's Non-point Source Management Program. Other funding sources for implementation include the U.S. Department of Agriculture's Conservation Reserve Enhancement and Environmental Quality Incentive Programs, the Virginia State Revolving Loan Program, and the Virginia Water Quality Improvement Fund. The TMDL Implementation Plan Guidance Manual contains additional information on funding sources, as well as government agencies that might support implementation efforts and suggestions for integrating TMDL implementation with other watershed planning efforts.

6.3.4 No Discharge Zones for Vessels

Many tributaries as well as the Chesapeake Bay are utilized by private and commercial vessels as routes of transportation and as areas of safe anchorage. In some tributaries large concentrations of these vessels may be present as vessels in transit and at anchor, vessels secured by moorings, or vessels either resident or transient at marinas located in the watershed. While the discharge of untreated human sewage is illegal under the Clean Water Act and under Virginia law, discharges from Coast Guard approved Marine Sanitation Devices has remained. These devices are not able to adequately treat human waste discharged into small watersheds and embayments and results in an unabated discharge of viruses, nitrogen, phosphorus and oxygen demanding wastes. While use of MSD's may be appropriate for waters in open near coastal areas, other waters, particularly tributaries to the Chesapeake Bay may be adversely affected by such discharges. Sewage discharges from marine sanitation devices in small confined watersheds or anchorages where shellfish harvest or contact recreation use is the designated and actual use of these waters, can contaminate important shellfish resources and expose humans to inadequately treated human sewage. In such waters seeking a no-discharge designation may be the best means to preclude discharges of inadequately treated sewage from all vessels which may transit or seek shelter in the water body of concern. Such no-discharge designations currently exist in Smith Mountain Lake and are applicable to other inland lakes and rivers and has been approved by Virginia and submitted to the U.S. Environmental Protection Agency for Lynnhaven, Broad, and Linkhorn Bays, tributaries to the Chesapeake Bay. In this watershed holding tanks and pump out facilities must be used and the discharge of treated human waste from vessels is prohibited. Procedures for establishing such NDZ's and the state and federal regulations regarding vessel discharges can be found in the Appendix.
obtained at http://www.deq.virginia.gov/wqs/WQS03AUG.pdf.

6.3.4 Addressing Wildlife Contributions

In some waters for which TMDLs have been developed, water quality modeling indicates that even after removal of all of the sources of bacteria (other than wildlife), the stream will not attain standards under all flow regimes at all times. **However, neither the Commonwealth of Virginia, nor EPA is proposing the elimination of wildlife to allow for the attainment of water quality standards.** This is obviously an impractical and wholly undesirable action. While managing over-populations of wildlife remains as an option to local stakeholders, the reduction of wildlife or changing a natural background condition is not the intended goal of a TMDL.

Based on the above, EPA and Virginia have developed a TMDL strategy to address the wildlife issue. The first step in this strategy is to develop a reduction goal. The pollutant reductions for the interim goal are applied only to controllable, anthropogenic sources identified in the TMDL, setting aside any control strategies for wildlife. During the first implementation phase all controllable sources would be reduced to the maximum extent practicable using the staged approach outlined above. Following completion of the first phase, DEQ would re-assess water quality in the stream to determine if the water quality standard is attained. This effort will also evaluate if the technical assumptions were correct. If water quality standards are not being met, a UAA may be initiated to reflect the presence of naturally high bacteria levels due to uncontrollable sources. In some cases, the effort may never have to go to the second phase because the water quality standard exceedances attributed to wildlife may be very small and fall within the margin of error.

If water quality standards are not being met, a special study called a Use Attainability Analysis (UAA) may be initiated to reflect the presence of naturally high bacteria levels due to uncontrollable sources. The outcomes of the UAA may lead to the determination that the designated use(s) of the waters may need to be changed to reflect the attainable use(s). To remove a designated use, the state must demonstrate 1) that the use is not an existing use, 2) that downstream uses are protected, and 3) that the source of bacterial contamination is natural and uncontrollable by effluent limitations and by implementing cost-effective and reasonable best management practices for non-point source control (9 VAC 25-260-10). All site-specific criteria or designated use changes must be adopted as amendments to the water quality standards regulations. Watershed stakeholders and EPA will be able to provide comment during this process. Additional information can be obtained at http://www.deq.virginia.gov/wqs/WQS03AUG.pdf

7.0. Public Participation

During development of the TMDL for the Timberneck, Cedarbush, Carter, Aberdeen and Jones Creeks, in Growing Area 47 and 47A, public involvement was encouraged through a public participation process that included public meetings and stakeholder meetings.

The first public meeting was held on September 21, 2006. A basic description of the TMDL process and the agencies involved was presented and a discussion was held to regarding the source assessment input, bacterial source tracking, and model results. This meeting was followed by development of the final draft TMDL and a second public meeting held on March 6, 2007.

Input from these meetings was utilized in the development of the TMDL and improved confidence in the allocation scenarios and TMDL process.

8.0 Glossary

303(d). A section of the Clean Water Act of 1972 requiring states to identify and list water bodies that do not meet the states' water quality standards.

Allocations. That portion of receiving water's loading capacity attributed to one of its existing or future pollution sources (nonpoint or point) or to natural background sources. (A wasteload allocation [WLA] is that portion of the loading capacity allocated to an existing or future point source, and a load allocation [LA] is that portion allocated to an existing or future nonpoint source or to natural background levels. Load allocations are best estimates of the loading, which can range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting loading.)

Ambient water quality. Natural concentration of water quality constituents prior to mixing of either point or nonpoint source load of contaminants. Reference ambient concentration is used to indicate the concentration of a chemical that will not cause adverse impact on human health.

Anthropogenic. Pertains to the [environmental] influence of human activities.

Bacteria. Single-celled microorganisms. Bacteria of the coliform group are considered the primary indicators of fecal contamination and are often used to assess water quality.

Bacterial source tracking (BST). A collection of scientific methods used to track sources of fecal contamination.

Best management practices (BMPs). Methods, measures, or practices determined to be reasonable and cost-effective means for a landowner to meet certain, generally nonpoint source, pollution control needs. BMPs include structural and nonstructural controls and operation and maintenance procedures.

Clean Water Act (CWA). The Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972), Public Law 92-500, as amended by Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 et seq. The Clean Water Act (CWA) contains a number of provisions to restore and maintain the quality of the nation's water resources. One of these provisions is section 303(d), which establishes the TMDL program.

Concentration. Amount of a substance or material in a given unit volume of solution; usually measured in milligrams per liter (mg/L) or parts per million (ppm).

Contamination. The act of polluting or making impure; any indication of chemical, sediment, or biological impurities.

Cost-share program. A program that allocates project funds to pay a percentage of the cost of constructing or implementing a best management practice. The remainder of the costs is paid by the producer(s).

Critical condition. The critical condition can be thought of as the "worst case" scenario of environmental conditions in the water body in which the loading expressed in the TMDL for the pollutant of concern will continue to meet water quality standards. Critical conditions are the combination of environmental factors (e.g., flow, temperature, etc.) that results in attaining and maintaining the water quality criterion and has an acceptably low frequency of occurrence.

Designated uses. Those uses specified in water quality standards for each water body or segment whether or not they are being attained.

Domestic wastewater. Also called sanitary wastewater, consists of wastewater discharged from residences and from commercial, institutional, and similar facilities.

Drainage basin. A part of a land area enclosed by a topographic divide from which direct surface runoff from precipitation normally drains by gravity into a receiving water. Also referred to as a watershed, river basin, or hydrologic unit.

Existing use. Use actually attained in the water body on or after November 28, 1975, whether or not it is included in the water quality standards (40 CFR 131.3).
Fecal Coliform. Indicator organisms (organisms indicating presence of pathogens) associated with the digestive tract.
Geometric mean. A measure of the central tendency of a data set that minimizes the effects of extreme values.
GIS. Geographic Information System. A system of hardware, software, data, people, organizations and institutional arrangements for collecting, storing, analyzing and disseminating information about areas of the earth. (Dueker and Kjerne, 1989)
Infiltration capacity. The capacity of a soil to allow water to infiltrate into or through it during a storm.
Interflow. Runoff that travels just below the surface of the soil.
Loading, Load, Loading rate. The total amount of material (pollutants) entering the system from one or multiple sources; measured as a rate in weight per unit time.
Load allocation (LA). The portion of a receiving waters loading capacity attributed either to one of its existing or future nonpoint sources of pollution or to natural background sources. Load allocations are best estimates of the loading, which can range from reasonably accurate estimates to gross allotments, depending on the availability of data and appropriate techniques for predicting the loading. Wherever possible, natural and nonpoint source loads should be distinguished (40 CFR 130.2(g)).
Loading capacity (LC). The greatest amount of loading a water body can receive without violating water quality standards.
Margin of safety (MOS). A required component of the TMDL that accounts for the uncertainty about the relationship between the pollutant loads and the quality of the receiving water body (CWA section 303(d)(1)©). The MOS is normally incorporated into the conservative assumptions used to develop TMDLs (generally within the calculations or models) and approved by EPA either individually or in state/EPA agreements. If the MOS needs to be larger than that which is allowed through the conservative assumptions, additional MOS can be added as a separate component of the TMDL (in this case, quantitatively, a TMDL = LC = WLA + LA + MOS).
Mean. The sum of the values in a data set divided by the number of values in the data set.
Monitoring. Periodic or continuous surveillance or testing to determine the level of compliance with statutory requirements and/or pollutant levels in various media or in humans, plants, and animals.
Narrative criteria. Non-quantitative guidelines that describe the desired water quality goals.
Nonpoint source. Pollution that originates from multiple sources over a relatively large area. Nonpoint sources can be divided into source activities related to either land or water use including failing septic tanks, improper animal-keeping practices, forest practices, and urban and rural runoff.
Numeric targets. A measurable value determined for the pollutant of concern, which, if achieved, is expected to result in the attainment of water quality standards in the listed water body.
Point source. Pollutant loads discharged at a specific location from pipes, outfalls, and conveyance channels from either municipal wastewater treatment plants or industrial waste treatment facilities. Point sources can also include pollutant loads contributed by tributaries to the main receiving water, water body, or river.
Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. (CWA section 502(6)).

Pollution. Generally, the presence of matter or energy whose nature, location, or quantity produces undesired environmental effects. Under the Clean Water Act, for example, the term is defined as the man-made or man-induced alteration of the physical, biological, chemical, and radiological integrity of water.

Privately owned treatment works. Any device or system that is (a) used to treat wastes from any facility whose operator is not the operator of the treatment works and (b) not a publicly owned treatment works.

Public comment period. The time allowed for the public to express its views and concerns regarding action by EPA or states (e.g., a Federal Register notice of a proposed rule-making, a public notice of a draft permit, or a Notice of Intent to Deny).

Publicly owned treatment works (POTW). Any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature that is owned by a state or municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

Raw sewage. Untreated municipal sewage.

Receiving waters. Creeks, streams, rivers, lakes, estuaries, ground-water formations, or other bodies of water into which surface water and/or treated or untreated waste are discharged, either naturally or in man-made systems.

Riparian areas. Areas bordering streams, lakes, rivers, and other watercourses. These areas have high water tables and support plants that require saturated soils during all or part of the year. Riparian areas include both wetland and upland zones.

Riparian zone. The border or banks of a stream. Although this term is sometimes used interchangeably with floodplain, the riparian zone is generally regarded as relatively narrow compared to a floodplain. The duration of flooding is generally much shorter, and the timing less predictable, in a riparian zone than in a river floodplain.

Runoff. That part of precipitation, snowmelt, or irrigation water that runs off the land into streams or other surface water. It can carry pollutants from the air and land into receiving waters.

Septic system. An on-site system designed to treat and dispose of domestic sewage. A typical septic system consists of a tank that receives waste from a residence or business and a drain field or subsurface absorption system consisting of a series of percolation lines for the disposal of the liquid effluent. Solids (sludge) that remain after decomposition by bacteria in the tank must be pumped out periodically.

Sewer. A channel or conduit that carries wastewater and storm water runoff from the source to a treatment plant or receiving stream. Sanitary sewers carry household, industrial, and commercial waste. Storm sewers carry runoff from rain or snow. Combined sewers handle both.

Slope. The degree of inclination to the horizontal. Usually expressed as a ratio, such as 1:25 or 1 on 25, indicating one unit vertical rise in 25 units of horizontal distance, or in a decimal fraction (0.04), degrees (2 degrees 18 minutes), or percent (4 percent).

Stakeholder. Any person with a vested interest in the TMDL development.

Surface area. The area of the surface of a water body; best measured by planimetry or the use of a geographic information system.

Surface runoff. Precipitation, snowmelt, or irrigation water in excess of what can infiltrate the soil surface and be stored in small surface depressions; a major transporter of nonpoint source pollutants.

Surface water. All water naturally open to the atmosphere (rivers, lakes, reservoirs, ponds, streams, impoundments, seas, estuaries, etc.) and all springs, wells, or other collectors directly influenced by surface water.

Topography. The physical features of a geographic surface area including relative elevations and the positions of natural and man-made features.
Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources and natural background, plus a margin of safety (MOS). TMDLs can be expressed in terms of mass per time, toxicity, or other appropriate measures that relate to a state's water quality standard.
VADEQ. Virginia Department of Environmental Quality.
VDH. Virginia Department of Health.
Virginia Pollutant Discharge Elimination System (NPDES). The national program for issuing, modifying, revoking and re-issuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements, under sections 307, 402, 318, and 405 of the Clean Water Act.
Wasteload allocation (WLA). The portion of a receiving waters' loading capacity that is allocated to one of its existing or future point sources of pollution. WLAs constitute a type of water quality-based effluent limitation (40 CFR 130.2(h)).
Wastewater. Usually refers to effluent from a sewage treatment plant. See also **Domestic wastewater**.
Wastewater treatment. Chemical, biological, and mechanical procedures applied to an industrial or municipal discharge or to any other sources of contaminated water to remove, reduce, or neutralize contaminants.
Water quality. The biological, chemical, and physical conditions of a water body. It is a measure of a waterbody's ability to support beneficial uses.
Water quality criteria. Levels of water quality expected to render a body of water suitable for its designated use, composed of numeric and narrative criteria. Numeric criteria are scientifically derived ambient concentrations developed by EPA or states for various pollutants of concern to protect human health and aquatic life. Narrative criteria are statements that describe the desired water quality goal. Criteria are based on specific levels of pollutants that would make the water harmful if used for drinking, swimming, farming, fish production, or industrial processes.
Water quality standard. Law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an antidegradation statement.
Watershed. A drainage area or basin in which all land and water areas drain or flow toward a central collector such as a stream, river, or lake at a lower elevation.
WQIA. Water Quality Improvement Act.

9.0 Citations

MapTech, Inc. December 2004. Bacterial Source Tracking Analysis to Support Virginia's TMDLs: Shellfish Stations.

US EPA Shellfish Workshop Document (2002).

VA DEQ 1998 303(d) List of Impaired Waters.

10.0 Appendices

Appendix A Growing Area 47 and 47A Sanitary Survey and Condemnation Notices

Appendix B Supporting Documentation and Watershed Assessment

Appendix C Water Quality Data

Appendix D 1) Code of Virginia §62.1-194.1 Obstructing or contaminating state waters.
2) 33 CFR Volume 2, Parts 120 to 199. Revised as of July 1, 2000

Appendix A: Growing Area 47: 1) Shoreline Sanitary Survey

YORK RIVER: GLOUCESTER POINT TO ALLMONDSVILLE
Growing Area #47
Gloucester County
Shoreline Sanitary Survey
Date: November 16, 2004
Survey Period: February 2-October 1, 2004
Total Number of Properties Surveyed: 2102
Surveyed By: J.E. Merritt, J.H. Ray, H.R. Barker and J.D. Dickerson

SECTION A: GENERAL

This survey area extends from Reference Point 47 at Gloucester Point to Reference Point 48 at State Route 606 (extended to shoreline), including the York River shoreline between these two points, Timberneck Creek (Piney Swamp), Poplar Creek, Cedarbush Creek, Carter Creek, Aberdeen Creek, Jones Creek, Sandy Creek, Fox Creek and all of their tributaries. The survey boundary has been revised since the previous survey. See map for current boundary. The topography of the area is generally moderate. The areas of Carmines Island and Sandy Creek are the exceptions. The land here is low and marshy and several homes suffered severe flood damage during Hurricane Isabel in September 03'. Elevations range from 0-20' within close proximity to the shoreline, to a maximum of 35-40' in the upper reaches of the shoreline. Population density in the area is sparse to moderate with the larger concentration of homes located in planned subdivisions and in the area between Gloucester Point and the east side of Timberneck Creek.

Meteorological data indicated that 1.82" of rain fell February 2-29, 2.09" in March, 2.82" in April,4.67" in May, 4.86" in June, 10.89" in July, 11.11" in August and 3.30" in September, for a total rainfall of 41.56" for the survey period.

The current restrictions on shellfish harvesting are Condemned Shellfish Area #3, York River: Timberneck Creek, revised 4 November 2003; Condemned Shellfish Area #72, York River: Fox Creek, reissued 27 April 1989; Condemned Shellfish Area #78, York River: Aberdeen Creek, revised 25 October 2001; Condemned Shellfish Area #107, York River- North Shore: Carter Creek, revised 4 November 2003; Condemned Shellfish Area #108, York River: Cedarbush Creek, revised 7 November 2002, and Condemned Shellfish Area #115, York River: Jones and Sandy Creeks, revised 7 November 2003. A copy of the current condemnation notices and maps are attached to the back of this report.

Information in this report is gathered by and primarily for use of the Division of Shellfish Sanitation, Virginia Department of Health, in order to fulfill its responsibilities of shellfish growing area supervision and classification. However, the data are made available to various agencies participating in shellfish program coordinated activities or other interested parties.

Report copies are provided to the local health department for corrective action of deficiencies listed on the summary page in Sections B.2. and B.3., and the Department of Environmental Quality for possible action at properties listed on the summary page in Section B.1. The Division of Soil and Water Conservation is provided information on possible sources of animal pollution found in Section E.

This report lists only those properties that have a sanitary deficiency or have other environmental significance. Individual field forms with full information on properties listed in this report are on file in the Richmond Office of the Division of Shellfish Sanitation and are available for reference until superseded by a subsequent survey of the area.

SECTION B: SEWAGE POLLUTION SOURCES

SEWAGE TREATMENT FACILITIES

-None-

ON-SITE SEWAGE DEFICIENCIES

5. CONTRIBUTES POLLUTION (Kitchen or Laundry Wastes) - Location: 7178 Mumfort View Drive, Gloucester 23061. Dwelling- white asbestos frame 1½ story with white trim, green shutters and galvanized metal roof. No contact. Kitchen and laundry waste being discharged into open trench through 1½" white PVC pipe. Sanitary Notice issued 4-19-04 to field #A270.

6. CONTRIBUTES POLLUTION (Kitchen or Laundry Wastes) - Location: 7016 Bray Road, Gloucester 23061. Dwelling- white construction block and asbestos shingle 1 story with white trim and redwood shutters. No contact. Greenish blue vinyl hose observed emerging from ground at rear of dwelling connected to washing machine inside dwelling. Sanitary Notice issued 5-14-04 to field #A318.

12. CONTRIBUTES POLLUTION - Location: 3135 Sandy Hill Court, Hayes 23072. Dwelling- tan metal siding trailer with gray trim. No contact. Effluent erupting onto ground surface from PVC cleanout caused by broken cap. Sanitary Notice issued 2-20-04 to field #B47.
15. CONTRIBUTES POLLUTION - Location: 3395 Village Landing Drive, Hayes 23072. Dwelling- yellow vinyl siding 2-story with green shutters. 10 persons. Effluent erupting onto ground surface at drainfield. Sanitary Notice issued 3-26-04 to field #B172.

16. CONTRIBUTES POLLUTION - Location: 6791 Fields Landing Road, Wicomico 23184. Dwelling- tan metal siding trailer. 1 person. Effluent erupting onto ground surface from septic tank. Sanitary Notice issued 4-02-04 to field #B200
.
17. CONTRIBUTES POLLUTION - Location: 3412 Woodbrook Lane, Wicomico 23184. Dwelling- green trailer with wood siding. 1 person. Effluent erupting from drainfield onto ground surface. Sanitary Notice issued 4-09-04 to field #B219.

18. CONTRIBUTES POLLUTION - Location: 3212 Providence Road, Hayes 23074. Dwelling- tan vinyl siding 1-story with green shutters and white trim. 5 persons. Distribution box collapsed. Permit has been issued by Gloucester Health Department. No sanitary notice was issued to field #B245.

19. CONTRIBUTES POLLUTION - Location: 3417 Timberneck Drive, Hayes 23072. Dwelling- white vinyl siding 2-story with burgundy shutters. 2 persons. Unapproved wooden lid on distribution box. Sanitary Notice issued 5-05-04 to field #B300.

21. NO FACILITIES - Location: 6276 Ramblewood Lane, Hayes 23072. Dwelling- temporary trailer on property. 1 person. Effluent stored in plastic bin not hooked up to septic tank and drainfield. Sanitary Notice issued 7-16-04 to field #B462.

24. CONTRIBUTES POLLUTION (Kitchen or Laundry Wastes) - Location: 3799 Cedar Bush Road, Hayes 23072. Dwelling- brown vinyl siding 2-story with green shutters and beige trim. No contact. Effluent erupting from grease trap onto ground surface. Sanitary Notice issued 3-24-04 to field #C44.

28. CONTRIBUTES POLLUTION - Location: 4106 Shelly Road, Hayes 23072. Dwelling- brick 1 story with black shutters and white trim. 1 person. Effluent erupting into excavated area above septic tank. Sump pump and hose pumping effluent into wooded area at rear of property. Sanitary Notice issued 4-28-04 to field #C159.

35. CONTRIBUTES POLLUTION - Location: 4524 Mallard Drive, Gloucester 23061. Dwelling- beige vinyl siding 1-story with green shutters. 3 persons. Effluent erupting from septic tank and drainfield onto ground surface. Sanitary Notice issued 6-4-04 to field #C255.

36. CONTRIBUTES POLLUTION - Location: 4511 Mallard Drive, Gloucester 23061. Dwelling- cream vinyl siding 1½ story with rust shutters and white front porch. No contact. Effluent erupting from septic tank and drainfield onto ground surface. Sanitary Notice issued 6-4-04 to field #C256.

37. CONTRIBUTES POLLUTION - Location: 5357 Merganser Circle, Gloucester 23061. Dwelling- yellow cream vinyl siding 2-story with green shutters and white trim. 4 persons. Effluent seeping to ground surface above distribution box. Sanitary Notice issued 6-25-04 to field #C334.

38. CONTRIBUTES POLLUTION - Location: 4281 Aberdeen Creek Road, Gloucester 23061. Dwelling- taupe vinyl siding 1½ story with white trim. Effluent seeping from drainfield onto ground surface. Sanitary Notice issued 9-2-04 to field #C469.

39. CONTRIBUTES POLLUTION - Location: 4221 Aberdeen Creek Road, Gloucester 23061. Dwelling- beige frame 1-story. 3 persons. Effluent standing on ground surface above drainfield. Sanitary Notice issued 9-3-04 to field #C473.

43. CONTRIBUTES POLLUTION (Kitchen or Laundry Wastes) - Location: 5171 Gum Fork Road, Gloucester 23061. Dwelling- white vinyl siding 1-story with dark red shutters. No contact. Laundry effluent erupting onto ground surface from underground line. Sanitary Notice issued 3-25-04 to field #D46.

44. CONTRIBUTES POLLUTION - Location: 5457 Clay Bank Road, Gloucester 23061. Dwelling- light gray vinyl siding 1-story with red shutters. No contact. Effluent erupting onto ground surface near septic tank clean-out cap. Sanitary Notice issued 3-25-04 to field #D62.

45. CONTRIBUTES POLLUTION - Location: 4729 Gum Fork Road, Gloucester 23061. Dwelling- off-white vinyl siding 1-story with green shutters. 4 persons. Effluent erupting from septic tank onto ground surface. Sanitary Notice issued 3-26-04 to field #D78.

49. CONTRIBUTES POLLUTION - Location: 6227 Allmondsville Road, Gloucester 23061. Owner Location: 502 Plantation Drive, Richmond 23227. Dwelling- brick and white frame 1 story. No contact. Effluent erupting from septic tank onto ground surface. Sanitary Notice issued 6-18-04 to field #D319.

POTENTIAL POLLUTION

3. Location: 7419 Lafayette Heights Drive, Gloucester 23062. Dwelling- brick 1 story with cream trim and green shutters. 2 persons. Owner reports that toilet flushes slowly after heavy rain. No odor, effluent or algae mat present.

4. Location: 1625 Pine Tree Drive, Gloucester 23062. Dwelling- white aluminum frame 1-story with blue shutters. No contact. A 0.5" white PVC pipe of unknown origin exiting rear of garage. No effluent present.

7. Location: 2439 Quail Run, Wicomico 23184. Dwelling- white painted brick 1 story with white trim and blue-gray shutters. 2 persons. Owner reports that toilet flushes slowly after heavy rain. Tank being pumped at time of inspection. No evidence of eruption.

9. Location: 6529 Powhatan Drive, Wicomico 23184. Dwelling- brick 1 story with tan wood plank and bronze trim. 2 persons. Owner reports difficulty in flushing toilets after heavy rain. No evidence of effluent at time of inspection.

10. Location: 6544 Creek Road, Hayes 23072. Dwelling- beige wood plank 1-story with white trim and black shutters. 3 persons. Owner reports toilet backs up after heavy rain. Drainfield soggy at time of inspection. No erupting effluent or odor present.

13. Location: 6673 Williams Landing Road, Wicomico 23184. Dwelling- tan vinyl trailer with blue shutters. No contact. Observed on-site were twenty plus vehicles surrounding property in various states of disrepair.

23. Location: 5988 Wainola Lane, Hayes 23072. Owner Location: 53 Queens Court, Newport News 23606. Dwelling- blue and white house trailer. 1 person. Large amount of junk scattered throughout property.

26. Location: 3741 Briggs Cove Road, Hayes 23072. Dwelling- beige frame 2-story with red door. 1 person. Owner stated that during periods of wet weather the drainfield fails. Owner is working with a local septic tank contractor to replace drain lines.

SECTION C: NON-SEWAGE WASTE SITES
INDUSTRIAL WASTES

41. ***DIRECT*** - Gloucester Seafood Incorporated, 3923 Aberdeen Creek Road, Gloucester 23061. Owner: George Sterling, 4854 Free School Road, Gloucester 23061. Business- crabmeat processing plant (VA 93C). 3 persons. Processing and washdown wastes from floor drains discharge to Aberdeen Creek. Has general seafood permit #VAG524022 from Department of Environmental Quality. Also on site is one 2000-gallon diesel tank without berm located on dock within 5 feet of Aberdeen Creek.

SOLID WASTE DUMPSITES

30. Occupant: Trans Atlantic Diesel Incorporated, 5906 Fairfield Lane, Hayes 23072. Owner: Marcus Neville, P.O. Box 70, White Marsh 23183. Business- diesel repair. 5 persons. Present at time of survey was a large quantity of used diesel engines, transmissions, scrap metal and used boats.

32. Bernard L. Smith, 5706 Hickory Fork Road, Gloucester 23061. Business- small auto engine repair shop. 1 person. Present at time of survey were 15 junk autos on approximately ½ acre lot.

SECTION D: BOATING ACTIVITY

MARINAS

2. VIMS boat basin, End of Greate Road (route 1208), Gloucester Point 23062. Owner: Virginia Institute of Marine Science, P.O. Box 1346, Gloucester Point 23062. Boat basin for marine institute vessels. 20 slips and 10 dry storage spaces available. Present at time of survey were 12 boats under 26' and 3 boats over 26' in wet slips; and in dry storage there were 8 boats under 26' and 2 boats over 26'. Boating services provided include fuel, ramp, water and repair. Sanitary facilities include 7 commodes, 5 lavatories, 1 shower and 3 urinals for men; and for women there are 5 commodes, 5 lavatories and 1 shower. No boat holding tank pump-out facilities exist at this location, however boats with onboard holding tanks are equipped to discharge into available dump station. Sewage disposal is to HRSD.

41. Gloucester Seafood Incorporated, 3923 Aberdeen Creek Road, Gloucester 23061. Owner: George Sterling, 4854 Free School Road, Gloucester 23061. Crab meat processing plant. 3 persons. 6 slip and moorings available. Present at time of survey were 3 work boats under 26' and 3 work boats over 26'. The only boating service provided is fuel. Sanitary facilities include 4 commodes and 4 lavatories for men; and for women there are 4 commodes and 4 lavatories. Sewage disposal is to septic tank with drainfield which appeared to be working properly at time of survey. There are no boat holding tank pump-out facilities and no portable toilet dump station facilities provided at this location.

OTHER PLACES WHERE BOATS ARE STORED

8. C.C. Conway Seafood, 2567 Conway Oysterhouse Lane, Wicomico 23184. Business-certified shellstock shipper. 3 persons. 2 moorings. Present at time of survey was 1 boat under 26' and 1 boat over 26'. The only boating service provided is electricity. Sanitary facilities consist of 1 lavatory and 2 privies for men and 1 lavatory and 2 privies for women. There are no boat holding tank pump-out facilities and no portable toilet dump station facilities provided at this location.

11. Location: End of Williams Landing Road (route 1303), Wicomico 23184. Owner: Virginia Department of Transportation, PO Box 184, Saluda 23149. Public boat ramp and pier. 25 moorings available. Present at time of survey were 3 work boats under 26' and 4 work boats over 26'. The only boating service provided is an in-out ramp. There are no sanitary facilities, no boat holding tank pump-out facilities and no portable toilet dump station facilities provided at this location.

14. Private Pier, end of route 1301, Wicomico 23184. Owner: W.W. Sewell, Route 4 Box 900, Hayes 23072. Private pier with docking facilities. No contact. 10 moorings available. Present at time of survey were 3 boats under 26' and 2 boats over 26'. There are no sanitary facilities, no boat holding tank pump-out facilities and no portable toilet dump station facilities provided at the location.

UNDER SURVEILLANCE

1. Public boat landing, End of Greate Road (route 1208), Gloucester 23061. Owner: Virginia Department of Game and Inland Fisheries, 4010 Broad Street, Richmond 23230. Public boat ramp consisting of 1 double in-out concrete boat ramp. At time of inspection ramp was closed for repairs to damage caused by Hurricane Isabel in September 2003. There are no sanitary facilities, no boat holding tank pump-out facilities and no boating services provided at this location.

25. Oliver Landing, end of Cedar Bush Road (Route 633), Gloucester 23061. Owner: Gloucester County Parks and Recreation, P.O. Box 157, Gloucester 23061. Public boat landing with ramp and pier. No contact. 2 moorings. No boats present at time of survey. There are no sanitary facilities, no boat holding tank pump-out facilities and no portable toilet dump station facilities provided at the location.

40. Aberdeen Public Boat Landing, end of Aberdeen Creek Road (Route 632), Gloucester 23061. Owner: Gloucester County Parks and Recreation, P.O. Box 157, Gloucester 23061. Public boat landing. No contact. 4 slips/moorings available. Present at time of survey were 2 work boats under 26' and 1 work boat over 26'. There are no sanitary facilities, no boat holding tank pump-out facilities and no portable toilet dump station facilities provided at the location.

SECTION E: CONTRIBUTES ANIMAL POLLUTION

20. ***DIRECT*** - Location: 3084 Timberneck Farm Road, Hayes 23072. Dwelling- light green frame 2-story. 1 person. Present at time of survey were 27 cows with direct access to Timberneck Creek.

22. Location: 3948 Paradise Point Road, Hayes 23072. Dwelling- yellow frame 2-story with green and red shutters and white trim. 4 persons. Present at time of survey were 20 fowl, some with direct access to Cedar Bush creek.

27. Location: 3822 Laurel Lye Lane, Hayes 23072. Owner Location: 3765 Laurel Lye Lane, Hayes 23072. Dwelling- beige house trailer with brown trim and shutters. 4 persons. Present at time of survey were 6 horses in fenced pasture. Manure is left in field and used as fertilizer by local residents.

29. Location: 4399 Pleasant Colony Lane, Hayes 23072. Owner: Robert and Cherrie Coleman, P.O. Box 1292, White Marsh 23183. Dwelling- brick 1 story. No contact. Present at time of survey were 7 horses in fenced pasture. Manure is left in pasture to decompose.

31. Location: 5750 Hickory Fork Road, Gloucester 23061. Owner: Juanita Blair, 5738 Hickory Fork Road, Gloucester 23061. Dwelling- gray vinyl siding 1 story with rust shutters and trim. No contact. Present at time of survey were 27 hounds in elevated cages. Method of manure disposal is unknown.

33. Location: 4752 Orchard Lane, Gloucester 23061. Owner: John Smith, 5271 Aberdeen Creek Road, Gloucester 23061. Horse farm with barn. No contact. Present at time of survey were 8 horses in fenced pasture. Manure is left in pasture to decompose.

34. Location: 4714 New Quarter Farm Lane, Gloucester 23061. Dwelling- frame farm house. 2 persons. Present at time of survey were 6 horses and 8 cattle in fenced pastures. Manure is left in pasture to decompose.

42. Mystic Stables (Deronda G. Simpson), 5420 Mystical Lane, Gloucester 23061. Dwelling- gray vinyl siding 1-story with red shutters and white trim. Private stables with riding and boarding facilities. 1 person. Present at time of survey were 12-15 horses in assorted stables and fenced pastures. Manure is left in pasture to decompose.

46. Location: 4618 Primrose Path, Gloucester 23061. Dwelling-light yellow vinyl siding 1-story with brown shutters and white trim. No contact. Present at time of survey were 5 horses in fenced pasture with no direct access to Aberdeen Creek. Manure is left in pasture to decompose.

47. Location: 4832 Claybank Road, Gloucester 23061. Dwelling- white frame 2-story with red tin roof. No contact. Present at time of survey were 15 goats in fenced pen. Method of manure disposal was unknown.

48. Location: 5992 York Haven Lane, Gloucester 23061. Dwelling- brick 1 story with white trim. 1 person. Present at time of survey were 12 cows in fenced pasture 350' from York River. Manure is composted.

SUMMARY
Area #47
York River: Gloucester Point to Allmondsville
November 16, 2004

SECTION B: SEWAGE POLLUTION SOURCES

1. SEWAGE TREATMENT FACILITIES

0 - DIRECT - None
0 - INDIRECT - None
0 - B.1. TOTAL

2. ON-SITE SEWAGE DEFICIENCIES

0 - CONTRIBUTES POLLUTION, DIRECT - None
15 - CONTRIBUTES POLLUTION, INDIRECT - # 12, 15, 16, 17, 18, 19, 28, 35, 36, 37, 38, 39, 44, 45, 49
0 - CP (Kitchen or Laundry Wastes), Direct - None
4 - CP (Kitchen or Laundry Wastes), Indirect - # 5, 6, 24, 43
0 - NO FACILITIES, DIRECT - None
1 - NO FACILITIES, INDIRECT - # 21
20 - B.2. TOTAL

3. POTENTIAL POLLUTION

8 - POTENTIAL POLLUTION - # 3, 4, 7, 9, 10, 13, 23, 26

SECTION C: NON-SEWAGE WASTE SITES

1. INDUSTRIAL WASTE SITES

1 - DIRECT - # 41
0 - INDIRECT - None
1 - C.1. TOTAL

2. SOLID WASTE DUMPSITES

0 - DIRECT - None
2 - INDIRECT - # 30, 32
2 - C.2. TOTAL

SECTION D: BOATING ACTIVITY

2 - MARINAS - # 2, 41
3 - OTHER PLACES WHERE BOATS ARE MOORED - # 8, 11, 14
3 - UNDER SURVEILLANCE - # 1, 25, 40
8 - D. TOTAL

SECTION E: CONTRIBUTES ANIMAL POLLUTION

1 - DIRECT - # 20
10 - INDIRECT - # 22, 27, 29, 31, 33, 34, 42, 46, 47, 48
11 - E. TOTAL

REGISTRAR OF REGULATIONS
06 JUN -2 PM 2:45

COMMONWEALTH of VIRGINIA

Department of Health
DIVISION OF SHELLFISH SANITATION
109 Govenor Street, Room 614-B
Richmond, VA 23219

Ph: 804-864-7487
Fax: 804-864-7481

NOTICE AND DESCRIPTION OF SHELLFISH AREA CONDEMNATION NUMBER 047-003, TIMBERNECK CREEK

EFFECTIVE 15 JUNE 2006

Pursuant to Title 28.2, Chapter 8, §§28.2-803 through 28.2-808, §32.1-20, and §9-6.14:4.1, B.16 of the *Code of Virginia.*

1. The "Notice and Description of Shellfish Area Condemnation Number 3, York River: Timberneck Creek," effective 4 November 2003, is cancelled effective 15 June 2006.

2. Condemned Shellfish Area Number 047-003 shown as Section A, is established effective 15 June 2006. It shall be unlawful for any person, firm, or corporation to take shellfish from this area for any purpose, except by permit granted by the Marine Resources Commission, as provided in Section 28.2-810 of the *Code of Virginia.* The boundaries of this area are shown on the map titled "Timberneck Creek, Condemned Shellfish Area Number 047-003, 15 June 2006" which is part of this notice.

3. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this order.

BOUNDARIES OF CONDEMNED AREA NUMBER 047-003

A. The condemned area shall include that portion of Timberneck Creek and its tributaries lying upstream of a line from latitude/longitude map coordinate (37°17'30.1",-76°32'13.9") to map coordinate (37°17'30.6",-76°32'00.7").

Recommended by: _____
Director, Division of Shellfish Sanitation

Ordered by: _____ 06/01/2006
State Health Commissioner Date

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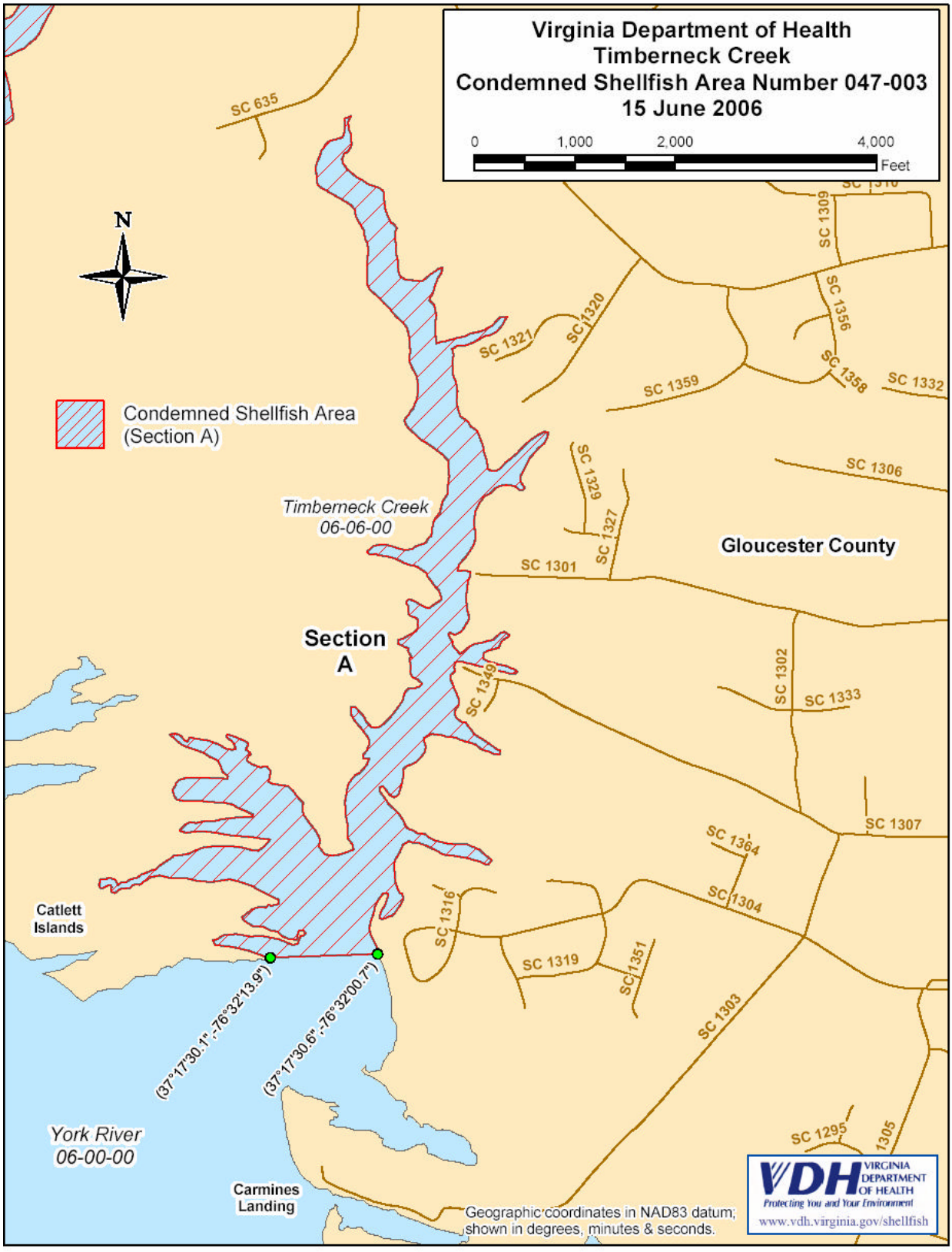
Virginia Department of Health
Timberneck Creek
Condemned Shellfish Area Number 047-003
15 June 2006
0
1,000
2,000
4,000
Feet
N
Condemned Shellfish Area
(Section A)
Timberneck Creek
06-06-00
Section
A
Gloucester County
SC 635
SC 1309
SC 1356
SC 1358
SC 1332
SC 1320
SC 1321
SC 1359
SC 1329
SC 1327
SC 1306
SC 1301
SC 1349
SC 1302
SC 1333
SC 1307
SC 1364
SC 1304
SC 1316
SC 1319
SC 1351
SC 1303
SC 1295
1305
Catlett
Islands
(37°17'30.1", -76°32'13.9")
(37°17'30.6", -76°32'00.7")
York River
06-00-00
Carmines
Landing
Geographic coordinates in NAD83 datum;
shown in degrees, minutes & seconds.
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COMMONWEALTH of VIRGINIA

Department of Health
DIVISION OF SHELLFISH SANITATION
109 Govenor Street, Room 614-B
Richmond, VA 23219

Ph: 804-864-7487
Fax: 804-864-7481

NOTICE AND DESCRIPTION OF SHELLFISH AREA CONDEMNATION NUMBER 047-072, FOX AND JONES CREEKS

EFFECTIVE 15 JUNE 2006

Pursuant to Title 28.2, Chapter 8, §§28.2-803 through 28.2-808, §32.1-20, and §9-6.14:4.1, B.16 of the *Code of Virginia.*

1. The "Notice and Description of Shellfish Area Condemnation Number 72, York River - Fox Creek," effective 27 April 1989, is cancelled effective 15 June 2006.

2. The "Notice and Description of Shellfish Area Condemnation Number 115, York River: Jones Creek," effective 7 November 2002, is cancelled effective 15 June 2006.

3. Condemned Shellfish Area Number 047-072, shown as Sections A and B, is established effective 15 June 2006. It shall be unlawful for any person, firm, or corporation to take shellfish from these areas for any purpose, except by permit granted by the Marine Resources Commission, as provided in Section 28.2-810 of the *Code of Virginia.* The boundaries of these areas are shown on the map titled "Fox and Jones Creeks, Condemned Shellfish Area Number 047-072, 15 June 2006" which is part of this notice.

4. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this order.

BOUNDARIES OF CONDEMNED AREA NUMBER 047-072

A. The condemned area shall include all of Fox Creek and its tributaries lying upstream of a line drawn between latitude/longitude map coordinate (37°23'08.2",-76°38'35.3") and map coordinate (37°23'06.3",-76°38'37.4").

B. The condemned area shall include all of Jones Creek and its tributaries lying upstream of a line drawn between latitude/longitude map coordinate (37°21'42.7",-76°37'06.3") and map coordinate (37°21'36.9",-76°37'00.4").

Recommended by: _____
Director, Division of Shellfish Sanitation

Ordered by: _____ 06/01/2006
State Health Commissioner Date

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Virginia Department of Health
Fox and Jones Creeks
Condemned Shellfish Area Number 047-072
15 June 2006
0
1,250
2,500
5,000
Feet
Section A
Fox Creek
SC 662
SC 639
SC 1331
SC 1370
Capahosic
(37°23'08.2",-76°38'35.3")
(37°23'06.3",-76°38'37.4")
N
Condemned Shellfish Areas
(Sections A & B)
Gloucester County
Sandy Creek 06-18-00
York River 06-00-00
Section B
(37°21'42.7",-76°37'06.3")
(37°21'36.9",-76°37'00.4")
Jones Creek 06-16-00
SC 712
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Geographic coordinates in NAD83 datum;
shown in degrees, minutes & seconds.

COMMONWEALTH of VIRGINIA
Department of Health
DIVISION OF SHELLFISH SANITATION
109 Governor Street, Room 614-B
Richmond, VA 23219

Ph: 804-864-7487
Fax: 804-864-7481

NOTICE AND DESCRIPTION OF SHELLFISH AREA CONDEMNATION NUMBER 047-078, ABERDEEN, CARTER AND CEDARBUSH CREEKS

EFFECTIVE 15 JUNE 2006

Pursuant to Title 28.2, Chapter 8, §§28.2-803 through 28.2-808, §32.1-20, and §9-6.14:4.1, B.16 of the *Code of Virginia.*

1. The "Notice and Description of Shellfish Area Condemnation Number 047-078, York River: Aberdeen Creek," effective 30 December 2004, is cancelled effective 15 June 2006.

2. The "Notice and Description of Shellfish Area Condemnation Number 047-107, York River: Cedarbush Creek," effective 30 December 2004, is cancelled effective 15 June 2006.

3. Condemned Shellfish Area Number 047-078, shown as Sections A, B and C, is established effective 15 June 2006. It shall be unlawful for any person, firm, or corporation to take shellfish from these areas for any purpose, except by permit granted by the Marine Resources Commission, as provided in Section 28.2-810 of the *Code of Virginia.* The boundaries of these areas are shown on the map titled "Aberdeen, Carter and Cedarbush Creeks, Condemned Shellfish Area Number 047-078, 15 June 2006" which is part of this notice.

4. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this order.

BOUNDARIES OF CONDEMNED AREA NUMBER 047-078

A. The condemned area shall include all of Aberdeen Creek and its tributaries lying upstream of a line drawn between latitude/longitude map coordinate (37°20'20.0", -76°35'38.9") and map coordinate (37°20'06.1",-76°35'31.6").

B. The condemned area shall include that portion of Carter Creek and its tributaries lying upstream of a line drawn from latitude/longitude map coordinate (37°18'59.7", -76°34'20.7") to map coordinate (37°18'58.6",-76°34'03.9").

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C. The condemned area shall include that portion of Cedarbush Creek and its tributaries lying upstream of a line drawn from latitude/longitude map coordinate (37°18'39.8", -76°33'13.5") to map coordinate (37°18'34.8",-76°33'13.7").

Recommended by: _____
Director, Division of Shellfish Sanitation

Ordered by: _____ 06/01/2006
State Health Commissioner Date


Virginia Department of Health
Aberdeen, Carter and Cedarbush Creeks
Condemned Shellfish Area Number 047-078
15 June 2006
0 1,250 2,500 5,000
Feet
Gloucester County
Section A
Aberdeen Creek
06-14-00
Condemned Shellfish Areas
(Sections A, B & C)
SC 631
SC 616
SC 682
SC 632
SC 738
SC 1326
SC 1382
SC 1383
SC 1381
SC 1380
SC 1388
SC 1387
SC 644
SC 633
SC 634
SC 659
N
Section B
Carter Creek
06-15-00
Section C
Cedarbush Creek
06-10-00
Blundering Point
York River
06-00-00
(37°20'20.0", -76°35'38.9")
(37°20'06.1", -76°35'31.6")
(37°18'59.7", -76°34'20.7")
(37°18'58.6", -76°34'03.9")
(37°18'39.8", -76°33'13.5")
(37°18'34.8", -76°33'13.7")
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Geographic coordinates in NAD83 datum;
shown in degrees, minutes & seconds.

Appendix B: Supporting Documentation and Watershed Assessment

1. **Fecal Production Literature Review**
2. **Geographic Information System Data: Sources and Process**
3. **Watershed Source Assessment**

B-1. Fecal Production Literature Review

	Concentration in feces		Fecal coliform production rate		Comments
	FC/g	Ref.	FC/day (seasonal)	Ref.	
Cat	7.9E+06	1	5.0E+09	4	
Dog	2.3E+07	1	5.0E+09	4	
Chicken	1.3E+06	1	1.9E+08	4	
Chicken			2.4E+08	9	
Cow	2.3E+05	1	1.1E+11	4	average of dairy and beef
Beef cattle			5.4E+09	9	
Deer	1.0E+02	6	2.5E+04	6	assume 250 g/day
Deer	?		5.0E+08	9	best prof. judgement
Duck			4.5E+09	4	average of 3 sources
Duck	3.3E+07	1	1.1E+10	9	
Canada Geese			4.9E+10	4	
Canada Geese	3.6E+04	3	9.0E+06	3	
Canada Geese	1.5E+04	8	3.8E+06	8	assume 250 g/day (3)
Horse			4.2E+08	4	
Pig	3.3E+06	1	5.5E+09	4	
Pig			8.9E+09	9	
Sea Gull	3.7E+08	8	3.7E+09	8	assume 10 g/day
Sea gull			1.9E+09	5	mean of four species
Rabbit	2.0E+01	2	?		
Raccoon	1.0E+09	6	1.0E+11	6	assume 100 g/day
Sheep	1.6E+07	1	1.5E+10	4	
Sheep			1.8E+10	9	
Turkey	2.9E+05	1	1.1E+08	4	
Turkey			1.3E+08	9	
Rodent	1.6E+05	1	?		
Muskrat	3.4E+05	6	3.4E+07	6	
Human	1.3E+07	1	2.0E+09	4	
Septage	4.0E+05	7	1.0E+09	7	assume 70/gal/day/person

1. Geldreich, E. and E. A. Kenner. 1969. Concepts of fecal streptococci in stream pollution. J. Wat. Pollut. Control Fed. 41:R336-R352.
2. Geldreich, E., E. C. Best, B. A. Kenner, and D. J. Van Donsel. 1968. The bacteriological aspects of stormwater pollution. J. Wat. Pollut. Control Fed. 40:1861-1872.
3. Hussong, D., J. M. Damare, R. J. Limpert, W. J. L. Sladen, R. M. Weiner, and R. R. Colwell. 1979. Microbial impact of Canada geese (Branta canadensis) and whistling swans.
4. U.S. Environmental Protection Agency. 2001. Protocol for Developing Pathogen TMDLs. EPA 841-R-00-002. Office of Water (4503F), United States Environmental Protection Agency, Washington, DC. 132 pp.
5. Gould, D. J. and M. R. Fletcher. 1978. Gull droppings and their effects on water quality. Wat. Res. 12:665-672.
6. Kator, H. and M. W. Rhodes. 1996. Identification of pollutant sources contributing to degraded sanitary water quality in Taskinas Creek National Estuarine Research Reserve, Virginia. Special Report in Applied Marine Science and Ocean Engineering No. 336, The College of William and Mary, VIMS/School of Marine Science.
7. Kator, H., and M. W. Rhodes. 1991. Evaluation of Bacteroides fragilis bacteriophage, a candidate human-specific indicator of fecal contamination for shellfish-growing waters. A final report prepared under NOAA Cooperative Agreement NA90AA-H-FD234. Prepared and submitted to NOAA, Southeast Fisheries Science Center, Charleston Laboratory, Charleston, SC. 98 pp.
8. Alderisio, K. A. and N. DeLuca. 1999. Seasonal enumeration of fecal coliform bacteria from the feces of ring-billed gulls (Larus delawarensis) and Canada geese (Branta canadensis). Appl. Environ. Microbiol. 65:5628-5630.
9. TMDL report attributed to Metcalf and Eddy 1991 (Potomac Headwaters of West VA).

B-3 Geographic Information System Data: Sources and Process

A geographic information system is a powerful computer software package that can store large amounts of spatially referenced data and associated tabular information. The data layers produced by a GIS can be used for many different tasks, such as generating maps, analyzing results, and modeling processes. Below is a table that lists the data layers that were developed for the watershed and hydrodynamic models.

Table B-2 GIS Data Elements and Sources

Data Element	Source	Date
Watershed boundary	Division of Shellfish Sanitation, VA Department of Health	Various dates
Subwatershed boundary	Center for Coastal Resources Management	2003
Land use	National Land Cover Data set (NLCD), US Geological Survey	1999
Elevation	Digital Elevation Models and Digital Raster Graphs, US Geological Survey	Various dates
Soils	SSURGO and STATSGO, National Resource Conservation Service	Various dates
Stream network	National Hydrography Dataset	1999
Precipitation, temperature, solar radiation, and evapotranspiration	Chesapeake Bay Program, Phase V	2002
Stream flow data	Gauging stations, US Geological Survey	Various dates
Shoreline Sanitary Survey deficiencies	Division of Shellfish Sanitation, VA Department of Health	Various dates
Wastewater treatment plants	VA Department of Environmental Quality	Various dates
Sewers	Division of Shellfish Sanitation, VA Department of Health	Various dates
Dog population	US Census Bureau American Veterinary Association	2000 2002
Domestic livestock	National Agricultural Statistics Service, USDA	1997/2001
Wildlife	Virginia Department of Game and Inland Fisheries, US Fish and Wildlife Service	2004 2004
Septic tanks (from human population)	Division of Shellfish Sanitation, VA Department of Health US Census Bureau	Various dates 2000
Water quality monitoring stations	Division of Shellfish Sanitation, VA Department of Health	Various dates
Water quality segments	Center for Coastal Resources Management	2003
Tidal prism segments	Department of Physical Sciences, VIMS	2003
Water body volumes	Bathymetry from Hydrographic Surveys, National Ocean Service, NOAA	Various dates
Condemnation zones	Division of Shellfish Sanitation, VA Department of Health	Various dates
Tidal data	NOAA tide tables	2004

A. GIS Data Description and Process

Watershed boundary determined by VDH, DSS. There are 105 watersheds in Virginia.

Subwatershed boundaries were delineated based on elevation, using digital 7.5 minute USGS topographic maps. There are 1836 subwatersheds.

The original land use has 15 categories that were combined into 3 categories:
urban (high and low density residential and commercial);
undeveloped (forest and wetlands); and
agriculture (pasture and crops).

Descriptions of Shoreline Sanitary Survey deficiencies are found in each report. Contact DSS for more information. Digital data layer generated by CCRM from hardcopy reports.

Wastewater treatment plant locations were obtained from DEQ and digital data layer was generated by CCRM. Design flow, measured flow, and fecal coliform discharges were obtained from DEQ.

Sewers data layer was digitized from Shoreline Sanitary Surveys by CCRM.

Dog numbers were obtained using the American Vet Associations equation of #households * 0.58. See website for additional information—
http://www.avma.org/membshp/marketstats/formulas.asp#households1.
Database was generated by CCRM.

Domestic livestock includes cows, pigs, sheep, chickens, turkeys, and horses. Database was generated by CCRM.

Wildlife includes ducks and geese, deer, and raccoons. Animals were chosen based on availability of fecal coliform production rates and population estimates. Database was generated by CCRM.
Ducks and geese–US FWS, DGIF
Deer–DGIF
Raccoons–DGIF

Human input was based on DSS sanitary survey deficiencies and US Census Bureau population data (number of households).

Water quality monitoring data are collected, on average, once per month. Digital data layer of locations was generated by DSS. Water quality data was mathematically processed and input into a database for model use.

Water bodies were divided into segments based on the location of the monitoring stations (midway between stations). If a segment contained >1 station, the FC values were averaged. If a segment contained 0 stations, the value from the closest station(s) was assigned to it. Digital data layer of segments was generated by CCRM. FC loadings in the water were obtained by multiplying FC concentrations by segment volume.

Bathymetry data were used to generate a depth grid that was used to estimate volumes for each water quality segment and tidal prism segment.

The 1998 303d report was used to set the list of condemnation zones that require TMDLs. The digital data layer was generated by CCRM from hardcopy closure reports supplied by DSS.

B. Population Numbers

The process used to generate population numbers used for the nonpoint source contribution analysis part of the watershed model for the four source categories: human, livestock, pets and wildlife is described for each below.

Human:

The number of people contributing fecal coliform from failing septic tanks were developed in two ways and then compared to determine a final value.

1) Deficiencies (septic failures) from the DSS shoreline surveys were counted for each watershed and multiplied by 3 (average number of people per household).
2) Numbers of households in each watershed were determined from US Census Bureau data. The numbers of households were multiplied by 3 (average number of people per household) to get the total number of people and then multiplied by a septic failure rate* to get number of people contributing fecal coliform from failing septic tanks.

*The septic failure rate was estimated by dividing the number of deficiencies in the watershed by the total households in the watershed. The average septic failure rate was 12% and this was used as the default unless the DSS data indicated that septic failure was higher.

Livestock:

US Census Bureau data was used to calculate the livestock values. The numbers for each type of livestock (cattle, pigs, sheep, chickens (big and small), and horses) were reported by county. Each type of livestock was assigned to the land use(s) it lives on, or contributes to by the application of manure, as follows:

Cattle	cropland and pastureland
Pigs	cropland
Sheep	pastureland
Chickens	cropland
Horses	pastureland

GIS was used to overlay data layers for several steps:

1) The county boundaries and the land uses to get the area of each land use in each county. The number of animals was divided by the area of each land use for the county to get an animal density for each county.
2) The subwatershed boundaries and the land uses to get the area of each land use in each subwatershed.
3) The county boundaries and the subwatershed boundaries to get the area of each county in each subwatershed. If a subwatershed straddled more than one county, the areal proportion of each county in the subwatershed was used to determine the number of animals in the subwatershed.

Using MS Access, for each type of livestock, the animal density by county was multiplied by the area of each land use by county in each subwatershed to get the number of animals in each subwatershed. If more than one county was present in a subwatershed, the previous step was done for each county in the subwatershed, then summed for a total number of animals in the subwatershed. The number of animals in each subwatershed was summed to get the total number of animals in each watershed.

Pets:

The dog population was calculated using a formula for estimating the number of pets using national percentages, reported by the American Veterinary Association:

dogs = # of households * 0.58.

US Census Bureau data provided the number of households by county. The number of dogs per county was divided by the area of the county to get a dog density per county. GIS was used to overlay the subwatershed boundaries with the county boundaries to get the area of each county in a subwatershed. If a subwatershed straddled more than one county, the areal proportion of each county in the subwatershed was calculated. Using MS Access, the area of each county in the subwatershed was multiplied by the dog density per county to get the number of dogs per subwatershed. If more than one county was present in a subwatershed, the previous step was done for each county in the subwatershed, then summed for a total number of dogs in the subwatershed. The number of dogs in each subwatershed was summed to get the total number of dogs in each watershed.

Wildlife:

Deer—

The number of deer were calculated using information supplied by DGIF, consisting of an average deer index by county and the formula:

#deer/mi^2 of deer habitat = (-0.64 + (7.74 * average deer index)).

Deer habitat consists of forests, wetlands, and agricultural lands (crop and pasture). GIS was used to overlay data layers for the following steps:

1) The county boundaries and the subwatershed boundaries to get the area of each county in each subwatershed. If a subwatershed straddled more than one county, the areal proportion of each county in the subwatershed was calculated.
2) The subwatershed boundaries and the deer habitat to get the area of deer habitat in each subwatershed.

Using MS Access, number of deer in each subwatershed were calculated by multiplying the #deer/mi^2 of deer habitat times the area of deer habitat. If more than one county was present in a subwatershed, the previous step was done for each county in the subwatershed, then summed for a total number of deer in the subwatershed. The number of deer in each subwatershed was summed to get the total number of deer in each watershed.

Ducks and Geese—

The data for ducks and geese were divided into summer (April through September) and winter (October through March).

Summer

The summer numbers were obtained from the Breeding Bird Population Survey (US Fish and Wildlife Service) and consisted of bird densities (ducks and geese) for 3 regions: the southside of the James River, the rest of the tidal areas, and the salt marshes in both areas. The number of ducks and geese in the salt marshes were distributed into the other 2 regions based on the areal proportion of salt marshes in them using the National Wetland Inventory data and GIS.

Winter

The winter numbers were obtained from the Mid-Winter Waterfowl Survey (US Fish and Wildlife Service) and consisted of population numbers for ducks and geese in several different areas in the tidal region of Virginia. MS Access was used to calculate the total number of ducks and geese in each area and then these numbers were grouped to match the 2 final regions (Southside and the rest of tidal Virginia) for the summer waterfowl populations. Winter populations were an order of magnitude larger than summer populations.

Data from DGIF showed the spatial distribution of ducks and geese for 1993 and 1994. Using this information and GIS a 250m buffer on each side of the shoreline was generated and contained 80% of the birds. Wider buffers did not incorporate significantly more birds, since they were located too far inland. GIS was used to overlay the buffer and the watershed boundaries to calculate the area of buffer in each watershed. To distribute this information into each subwatershed, GIS was used to calculate the length of shoreline in each subwatershed and the total length of shoreline in the watershed. Dividing the length of shoreline in each subwatershed by the total length of shoreline gives a ratio that was multiplied by the area of the watershed to get an estimate of the area of buffer in each subwatershed. MS Excel was used to multiply the area of buffer in each subwatershed times the total numbers of ducks and geese to get the numbers of ducks and geese in each subwatershed. These numbers were summed to get the total number of ducks and geese in each watershed. To get annual populations, the totals then were divided by 2, since they represent only 6 months of habitation (this reduction underestimates the total annual input from ducks and geese, but is the easiest conservative method to use since the model does not have a way to incorporate the seasonal differences).

Raccoons—

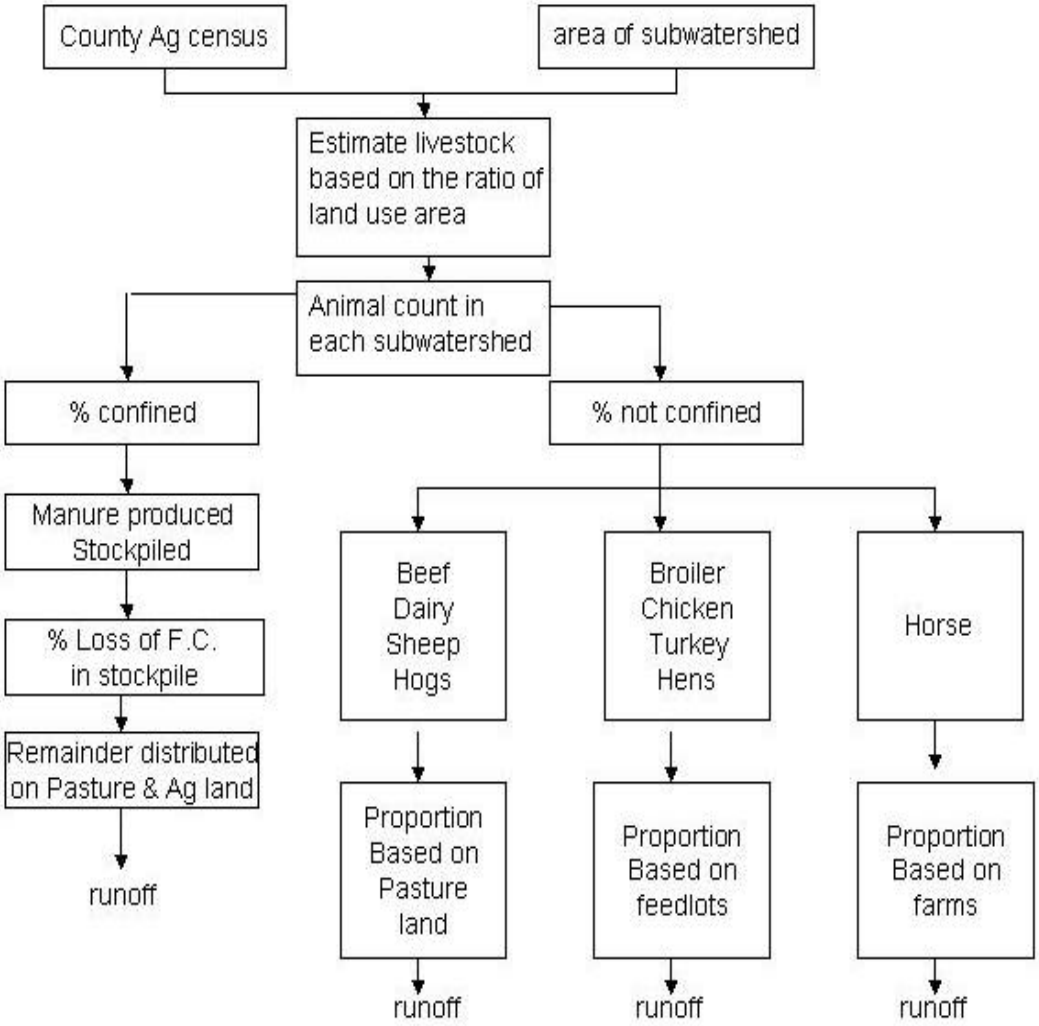
Estimates for raccoon densities were supplied by DGIF for 3 habitats—wetlands (including freshwater and saltwater, forested and herbaceous), along streams, and upland forests. GIS was used to generate a 600ft buffer around the wetlands and streams, and then to overlay this buffer layer with the subwatershed boundaries to get the area of the buffer in each subwatershed. GIS was used to overlay the forest layer with the subwatershed boundaries to get the area of forest in each subwatershed. MS Access was used to multiply the raccoon densities for each habitat times the area of each habitat in each subwatershed to get the number of raccoons in each habitat in each subwatershed. The number of raccoons in each subwatershed was summed to get the total number of raccoons in each watershed.

B-4. Watershed Source Assessment

The watershed assessment calculates fecal coliform loads by source based on geographic information system data. A geographic information system is a powerful computer software package that can store large amounts of spatially referenced data and associated tabular information. The data layers produced by a GIS can be used for many different tasks, such as generating maps, analyzing results, and modeling processes. The watershed model requires a quantitative assessment of human sewage sources (i. e., malfunctioning septic systems) and animal (livestock, pets and wildlife) fecal sources distributed within each watershed.

The fecal coliform contribution from livestock is through the manure spreading processes and direct deposition during grazing. This contribution was initially estimated based on land use data and the livestock census data. In the model, manure was applied to both cropland and pasture land depending on the grazing period. Figure B-1 shows a diagram of the procedure for estimating the total number of livestock in the watershed and fecal coliform production. A description of the process used to determine the source population values for wildlife, pets and human used in the calculation of percent loading is found in Appendix B.

FIGURE B-1 Diagram to Illustrate Procedure Used to Estimate Fecal Coliform Production from Estimated Livestock Population



Appendix C:

Vessel Sewage Discharge Program

Marine Sanitation Device Standard--Establishment of Drinking Water Inake No Discharge Zone(s) Under Section 312(f)(4)(B) of the Clean Water Act; Final Rule.

As of January 30, 1980, if a vessel has an installed toilet (technically referred to as a marine sanitation device (MSD)), it must be equipped with one of three types of MSDs (http://www4.law.cornell.edu/uscode/33/1322.html).

The MSDs (Type I, Type II, Type III) are designed to meet different needs and effluent level requirements. Since portable toilets can be moved on and off a vessel, they are not considered installed toilets; therefore, vessels that have portable toilets are not subject to the MSD regulations.

Types of Marine Sanitation Devices		
Sewage Treatment Device	**Vessel Length**	**Standard**
Type I- Flow-through device (maceration and disinfection)	equal to or less than 65 feet in length	The effluent produced must not have a fecal coliform bacteria count greater than 1000 per 100 milliliters and have no visible floating solids.
Type II- Flow-through device (maceration and disinfection)	greater than 65 feet in length	The effluent produced must not have a fecal coliform bacteria count greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter .
Type III- Holding tank	any length	This MSD is designed to prevent the overboard discharge of treated or untreated sewage.

- Type I MSDs rely on maceration and disinfection for treatment of the waste prior to its discharge into the water.
- Type II MSDs are similar to the Type I; however, the Type II devices provide an advanced form of the same type of treatment and discharge wastes with lower fecal coliform counts and reduced suspended solids.
- Type III MSDs are commonly called holding tanks because the sewage flushed from the marine head is deposited into a tank containing deodorizers and other chemicals. The contents of the holding tank are stored until it can be properly disposed of at a shore-side pumpout facility. (Type III MSDs can be equipped with a discharge option, usually called a Y-valve, which allows the boater to direct the sewage from the head either into the holding tank or directly overboard. Discharging the contents directly overboard is legal only outside the U.S. territorial waters which is 3 or more miles from shore.)

Houseboats

In accordance with the FWPCA, a State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any MSD on a houseboat, if such statute or regulation is stricter than EPA and USCG requirements. The term "houseboat" refers to a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation. For example, a State may require that houseboats less than 65 feet (19.7 meters) in length with an installed Type I device update to a Type II or III device. **Reference: Section 1322(f)(1)(B) FWPCA**

DEQ Guidance on Establishing No Discharge Zones

M E M O R A N D U M

DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER QUALITY PROGRAMS

P.O. Box 10009 Richmond, VA 23240-0009

SUBJECT: Guidance Memo No. 04-2022
Procedures for Establishing Boating No Discharge Zones

TO: Regional Directors

FROM: Ellen Gilinsky, Ph.D., Director

DATE: November 29, 2004

COPIES: Rick Weeks, Jon Van Soestbergen and Cindy Berndt

Summary:

The purpose of this guidance is to provide a procedure for handling public or internal requests for the establishment of boating No Discharge Zones, and for establishing the No Discharge Zones in accordance with federal regulation 40 CFR Part 140 (2004) and state regulation 9 VAC 25-71 (2004).

Electronic Copy:

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET and for the general public on DEQ's website at: http://www.deq.virginia.gov/water/.

Contact information:

Please contact Mike Gregory, Office of Water Permit Support, (804) 698-4065 or mbgregory@deq.virginia.gov if you have any questions about this guidance.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any particular method for the analysis of data, establishment of a wasteload allocation, or establishment of a permit limit. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

PROCEDURE FOR DEQ REVIEW OF SECTION 312 NO DISCHARGE ZONE DESIGNATION REQUESTS

Background

Section 312 of the Clean Water Act and EPA regulations at 40 CFR Part 140 address sewage discharges from boats. The federal regulations control these discharges by requiring boats with installed toilets to have treatment units called Marine Sanitation Devices or "MSDs". Type I and Type II MSDs consist of two levels of treat and discharge units, while Type III MSDs are holding tanks that do not discharge and must be pumped out at pump out facilities. Pump out facilities are usually located at marinas and are regulated by the Virginia Department of Health. Most recreational boats with installed toilets have the holding tanks. Discharging raw sewage from boats, from holding tanks or portable toilets for example, is not directly addressed by federal regulations, but state law prohibits it and this is now clarified in our state regulation 9 VAC 25-71.

Federal law prohibits a state from adopting regulations regarding MSDs that are more stringent than federal regulations, but it allows a state to petition EPA for designation of No Discharge Zones (NDZs), where all sewage discharges, treated or untreated, are banned. The process is for the state to demonstrate that the particular water body requires special protection and that there are adequate pump out facilities in the area, since boat sewage wastes in NDZs would have to be held until pumped out. EPA does not have a specific application but has developed informational documents and a loosely structured process for applying for NDZ designation. Any citizen can initiate the process but the final request must be signed by the governor or chief environmental officer of the state.

Note that since untreated sewage discharges from boats are illegal, the only difference in a NDZ with respect to the law is that boats with treat and discharge units (MSD Type I or II) cannot use them. Since most boats on the water have holding tanks anyway, this is not a significant difference. It might be considered, however, that the public outreach and increased law enforcement efforts in NDZs provide for more protection of the waters with regard to previously undetected illegal discharges. Another consideration is that in areas where there is a considerable amount of commercial boat traffic there are more likely to be boats operating with treat and discharge type units (e.g., tug boats in the Chesapeake Bay).

As of the date of this guidance Smith Mountain Lake is the only designated NDZ in the state. This resulted from a bill that was passed by the General Assembly directing the State Water Control Board to petition EPA for NDZ designation. The designation was received and a new boating regulation, 9 VAC 25-71, was adopted that provides for NDZ identification and enforcement. Since the Smith Mountain Lake NDZ designation inquiries have been received from various groups in the Chesapeake Bay watershed wishing to pursue NDZ designation for other water bodies of concern. In order to handle these requests consistently and in accordance with State Water Control Law at Section 62.1-44.33 the following procedure should be followed.

Procedure

The procedure for designating Section 312 Boating No Discharge Zones will be as follows.

1. When an interested party, local government or state agency proposes No Discharge Zone (NDZ)

designation for a waterbody within the state it should submit a proposal including the following information to the Director of the DEQ Division of Water Quality Programs. The Division of Water Quality Programs will develop this information for DEQ initiated proposals:

A. Name and contact information for the person or group making the request.
B. Name and location of the waterbody.
C. Exact boundaries of the area to be designated, using latitude and longitude of boundaries, any bordering landmarks or delineating features (e.g., bridges or mean low water elevations) or other means of identifying the area.
D. A map of the area to be designated.
E. Reason why designation is being sought, i.e., why the water body requires greater environmental protection, including:
    (1) Nature of the waterbody (estuary, river, lake, etc.) and a description of its features (e.g., heavily populated area, major port or boating area, pristine bay with little surrounding development, enclosed embayment, deep mountain lake);
    (2) any unique features or qualities (including high quality waters) or environmental importance (e.g. shellfish waters) that necessitate stronger resource protection;
    (3) information on contact recreational use (e.g., swimming);
    (4) any specific water quality problems existing, including 303(d) listing and TMDL status if applicable.

    Note that greater environmental protection might be considered necessary to maintain the status of a high quality resource or to improve the status of a low quality one.
F. Indication if the waterbody is:
    (1) in an established sanctuary, national or state park, wilderness area, recreation area or if the waterbody is used by endangered or threatened species;
    (2) a public water supply.
G. A statement or rough estimate of the availability of boat sewage holding tank pump-outs in the area (more exact information will be developed for the EPA application).
H. A statement or rough estimate of the amount of boat traffic in the waterbody and the type of boat traffic, recreational or commercial (more exact information will be developed for the EPA application).
I. Indication, if available, of any public support or interest for or against the NDZ designation.
J. Information on any local enforcement capability (e.g., police boats).
K. Information on any local public outreach capability (provision of signs, pamphlets or other public awareness efforts).

2. DEQ will review the proposal and obtain more information if necessary.
3. If DEQ decides it is not appropriate to proceed, it will indicate why and what options are available to the individual or group if they wish to continue (e.g., approach the State Water Control Board or petition EPA directly).
4. If DEQ decides to proceed with the proposal it will set up a public meeting and provide public notice by publication in a paper local to the waterbody and by such other means as deemed necessary, notifying the public of the intent to designate the waters and what that means, and

providing public meeting information. A 30-day public notice period will follow.

5. After the public meeting and upon completion of the public notice period a review of public comments will be summarized and DEQ staff will present the proposal for NDZ and the summary of public comments to the State Water Control Board with a recommendation on pursuing the NDZ designation from EPA. Disapproval would mean that the individual or group wishing the designation would have to pursue it directly from EPA, obtaining the governor's signature without DEQ endorsement.
6. If the State Water Control Board approves pursuing the designation, DEQ will assist the individual or group in preparing an application to EPA and will coordinate with the Virginia Department of Health, the Department of Game and Inland Fisheries and the Virginia Marine Resources Commission (62.1-44.33 requires consultation with these agencies in formulating boating regulations) as well as with EPA Region III.
7. Once the application is prepared and the draft reviewed by EPA (EPA will indicate if it is sufficient for approval prior to formal submittal), DEQ will route the application through to the Executive Office for signature by the Secretary of Natural Resources and transmittal to EPA.
8. EPA will publish the proposal in the federal register.
9. Upon final publication in the federal register, the new NDZ will be established at the federal level.
10. DEQ will amend 9 VAC 25-71 by adding the new NDZ to the list of state designated NDZs, and will present it to the State Water Control Board as final exempt (required to conform to federal law).
11. Publication of the 9 VAC 25-71 amendment will be made in the Virginia Register and the final 30-day notice period will follow, after which the new NDZ is established at the state level.
12. Public awareness and enforcement efforts can begin.

Appendix D

Code of Virginia §62.1-194.1 Obstructing or contaminating state waters.

D1: Code of Virginia §62.1-194.1

§62.1-194.1. Obstructing or contaminating state waters.

Except as otherwise permitted by law, it shall be unlawful for any person to dump, place or put, or cause to be dumped, placed or put into, upon the banks of or into the channels of any state waters any object or substance, noxious or otherwise, which may reasonably be expected to endanger, obstruct, impede, contaminate or substantially impair the lawful use or enjoyment of such waters and their environs by others. Any person who violates any provision of this law shall be guilty of a misdemeanor and upon conviction be punished by a fine of not less than $100 nor more than $500 or by confinement in jail not more than twelve months or both such fine and imprisonment. Each day that any of said materials or substances so dumped, placed or put, or caused to be dumped, placed or put into, upon the banks of or into the channels of, said streams shall constitute a separate offense and be punished as such. In addition to the foregoing penalties for violation of this law, the judge of the circuit court of the county or corporation court of the city wherein any such violation occurs, whether there be a criminal conviction therefor or not shall, upon a bill in equity, filed by the attorney for the Commonwealth of such county or by any person whose property is damaged or whose property is threatened with damage from any such violation, award an injunction enjoining any violation of this law by any person found by the court in such suit to have violated this law or causing the same to be violated, when made a party defendant to such suit. (1968, c. 659.)