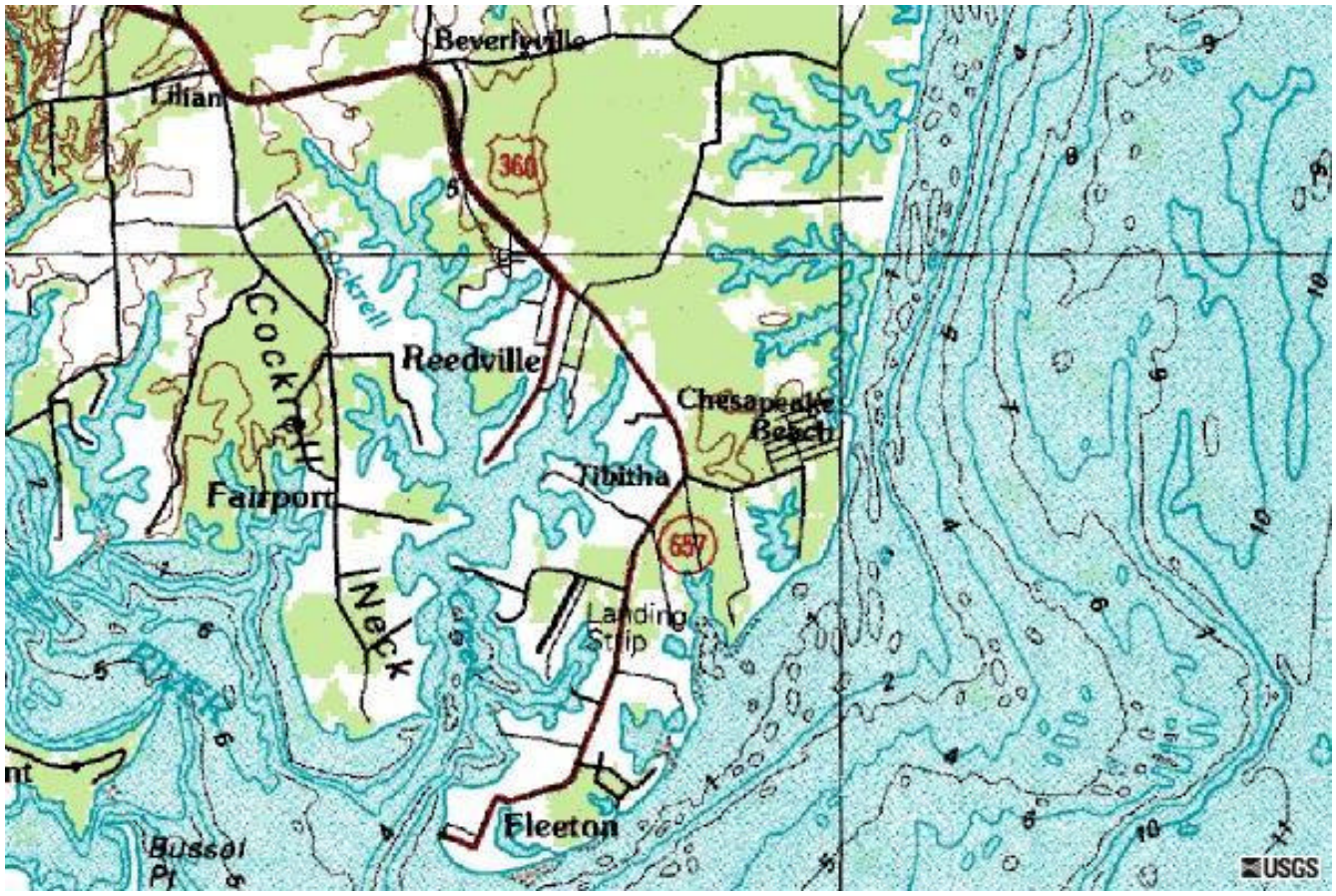
Owens Pond, Little Taskmakers Creek, and Un-named Tributary to Chesapeake Bay (Big Fleets Pond)Total Maximum Daily Load (TMDL) Report for Shellfish Condemnation Impaired Due to Bacteria Contamination

Virginia Department of Environmental Quality

May 26, 2009



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Executive Summary

This document details the development of a bacterial Total Maximum Daily Load (TMDL) for Owens Pond, Little Taskmakers Creek, and Unnamed Tributary to the Chesapeake Bay (locally known as Big Fleets Pond) watersheds in Northumberland County, Virginia. Owens Pond was listed as impaired for shellfish use 1998, and is still currently listed on the 2008 303(d) Total Maximum Daily Load Priority List. Little Taskmakers Creek was listed as impaired for shellfish use in Virginia's 1998 through 2004 303(d)lists, and relisted on the 2008 303(d) Total Maximum Daily Load Priority List. UT to Chesapeake Bay, locally known as Big Fleets Pond was listed as impaired for shellfish use in 2002, and is currently on the 2008 303(d) Total Maximum Daily Load Priority List. Since Owens Pond was first listed in 1998 there has been additional downstream movement of the impaired segment that is included in the TMDL. These additions were based on the Virginia Department of Health – Division of Shellfish Sanitation (VDH-DSS) condemnation notice dated March 9, 2005. VDEQ expanded the TMDL because annual VDH-DSS shellfish condemnation assessments indicated that these tidal portions became impaired since the 1998 listing and they combined to form the maximum extent of condemned areas in Owens Pond. To reduce unnecessary resources spent on repeated TMDL developments for additional segments in the same watershed, VDEQ included the most downstream mainstem condemnation in this watershed, using the combined surface area and volume of these areas in the TMDL development calculations. This is the concept of maximum extent for shellfish use TMDLs.

The maximum extent condemnation for Owens Pond is identified as condemnation 122, which consist of the northern tip of the mouth down to the Chesapeake beach uppermost tidal portion(37°51'10.7",-76°14'50.6" to 37°50'32.1",-76°14'56.7"). These impairments were originally identified in the 1998 303(d) list as Owens Pond (VAP-C01E-10-SF). The maximum extent condemnation for Little Taskmakers Creek is identified as condemnation 190, which consist of the entire creek out to the mouth at the Bay (37°49'19.5",-76°15'44.8" to 37°49'17.8",-76°15'47.4"). These impairments were originally identified in the 1998 303(d) list as Little Taskmakers Creek (VAP-C01E-11-SF). The UT to Chesapeake Bay (Big Fleets Pond) is also identified in condemnation 190 and consist of the entire pond and extends to the mouth of the Bay (37°48'48.7",-76°16'25.8" to 37°48'48.7",-76°16'26.0"). These impairments were originally identified in the 2002 303(d) list as UT to Chesapeake Bay (VAP-C01E-21-SF). 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). For the development of this TMDL, the 90^{th} percentile 49 MPN/100 ml was used, since it represented the more stringent standard and required the greatest reduction, as compared to the geometric mean.

Potential sources of fecal coliform consist primarily of non-point source contributions, and include 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.).

Virginia DEQ and the Virginia Department of Health (VDH) collaborated to use a simplified volumetric approach to develop the TMDL. The goal of the procedure is to use bacteriological source tracking (BST) data and bathymetric data to determine the sources of fecal coliform violations, the estuarine volumes and the load reductions needed to attain the applicable criteria.

To assist in partitioning the loads from the diverse sources within the watershed, BST samples of fecal coliform bacteria were collected monthly for one year. 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 sources of fecal coliforms are the anthropogenic sources of livestock, pet and human, followed by wildlife as a background contributor. The presence of large signatures attributable to different components 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 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. The results of the load calculations and the reductions necessary for each segment are shown below.

90th Percentile Analysis of Current Load and Estimated Load Reduction In Growing Area 011: Owens Pond, Little Taskmakers Creek, and Big Fleets Pond

Condemnation Area	Volume (m^3)	90th Percentile Fecal Coliform (MPN/100ml)	90th Percentile W.Q. Standard Fecal Coliform (MPN/100ml)	Current Load (MPN/day)	TMDL Allowable Load (MPN/day)	Required Reduction (%)
011-122A Owens pond	**318571**	**326.79**	**49**	**1.04E+12**	**1.56E+11**	**85%**
011-190A Little Taskmakers Creek	**74916**	**306.12**	**49**	**2.29E+11**	**3.67E+10**	**84%**
011-190B Big Fleets Pond	**27998**	**616.79**	**49**	**1.73E+11**	**1.37E+10**	**92.1%**

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. A MOS is either numeric or implicit in the design of the TMDL. In this TMDL the MOS is implicit in the conservative assumptions used in the load calculations, such as using the worst case bacterial concentrations in current load calculations, resulting in the highest and most protective percent reductions.

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."

Once a TMDL has been approved by EPA, measures must be taken to reduce pollution levels in the waterbody. These measures, which can include the use of better treatment technologies, the installation of best management practices (BMPs) and designation of a No Discharge Zone, are implemented in an iterative process that is described along with specific BMPs in the implementation plan. The TMDL developed for Owens Pond, Little Taskmakers Creek, and Big Fleets Pond watershed impairments provides 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. Reductions in non-point source loading are 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 Owens Pond and Little Taskmakers Creek, and Big Fleets Pond watershed, public involvement was encouraged through a public participation process that included public meetings and stakeholder meetings.

The first public meeting was held on January 21, 2009. A basic description of the TMDL process and the agencies involved was presented and a discussion was held regarding the source assessment input, bacterial source tracking, and load calculations. Public understanding of and involvement in the TMDL process was encouraged. Input from these meetings was utilized in the development of the TMDL and improved confidence in the allocation scenarios and TMDL process. The TMDL load allocations were presented during the second public meeting held on March 12, 2009. The public meeting was advertised in the local media, and email invitations were sent to local government and stakeholders. There was 1 public comment received.

1.0 Introduction

This document details the development of bacterial Total Maximum Daily Load (TMDL) for segments of Owens Pond, Little Taskmakers Creek, and Big Fleets Pond watersheds in Northumberland County, Virginia. Owens Pond was listed as impaired for shellfish use on Virginia's 1998, and is still currently listed on the 2008 303(d) Total Maximum Daily Load Priority List. Little Taskmakers creek was listed as impaired for shellfish use on Virginia's 1998 through 2004 303(d)lists, and is currently on the 2008 303(d) Total Maximum Daily Load Priority List. UT to Chesapeake Bay, locally known as Big Fleets Pond was listed as impaired for shellfish use on Virginia's 2002, and is currently on the 2008 303(d) Total Maximum Daily Load Priority List.

Due to annual VDH-DSS shellfish condemnation assessments, impaired shellfish waters often fluctuate in area and volume, as well as presence or absence of condemnations from year to year. An impaired area may be added to the 303(d) impaired waters list during one assessment cycle, and undergo several evolutions in size during the VDH-DSS cycles prior to TMDL development. Under this dynamic condition, and to reduce unnecessary resources spent on repeated TMDL developments in the same watersheds, VDEQ determined the maximum extent of condemned areas of all tidal portions of Owens Pond and Little Taskmakers Creek, Big Fleets Pond and their tributaries from all past VDH-DSS condemnations for development of this TMDL. VDEQ combined the most downstream mainstem condemnation with the largest number of tributary and cove condemnations in previous VDH-DSS condemnations in this watershed, using the combined surface area and volume of these areas in the TMDL development calculations. This is the concept of maximum extent in Shellfish use TMDLs.

Owens Pond was first condemned in 1973, then rescinded in the September 29, 2008 VDH condemnation listing. A copy of this notice is included in Appendix A. Because we are utilizing our concept of maximum extent we included Owens pond into the TMDL even though it is not currently impaired, if when implementation planning occurs and Owens Pond is still not listed then we should not focus implementation efforts to Owens Pond.

A TMDL is just 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. 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 waterbody. The waterbodies 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.

Fecal coliform bacteria are the most common cause for the impairments in Virginia shellfish growing waters. 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.

The Department of Environmental Quality (DEQ), the Virginia Department of Health – Division of Shellfish Sanitation (VDH-DSS) use a source identification method called bacterial or microbial source tracking (BST or MST). See Chapter 4 for further discussion of BST.

1.1 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 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.

2.0 Designated Uses and 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. The purpose of water quality standards is 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 Applicable Criteria

Generally, all tidal waters with salinity 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, or MF test of 31 CFU (colony forming units) per 100 milliliters.*

2.2 Classification of Virginia's Shellfish Growing Areas

The Virginia Department of Health, Division of Shellfish Sanitation is responsible for classifying shellfish waters. 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.

DSS designs and operates the shoreline survey to locate sources of pollution within the watersheds of shellfish growing areas. This is a property-by-property inspection of the onsite sanitary waste disposal facilities on un-sewered sections of watersheds, 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. 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 Owens Pond /Little Taskmakers Creek Shoreline Survey is discussed in Chapter 4.

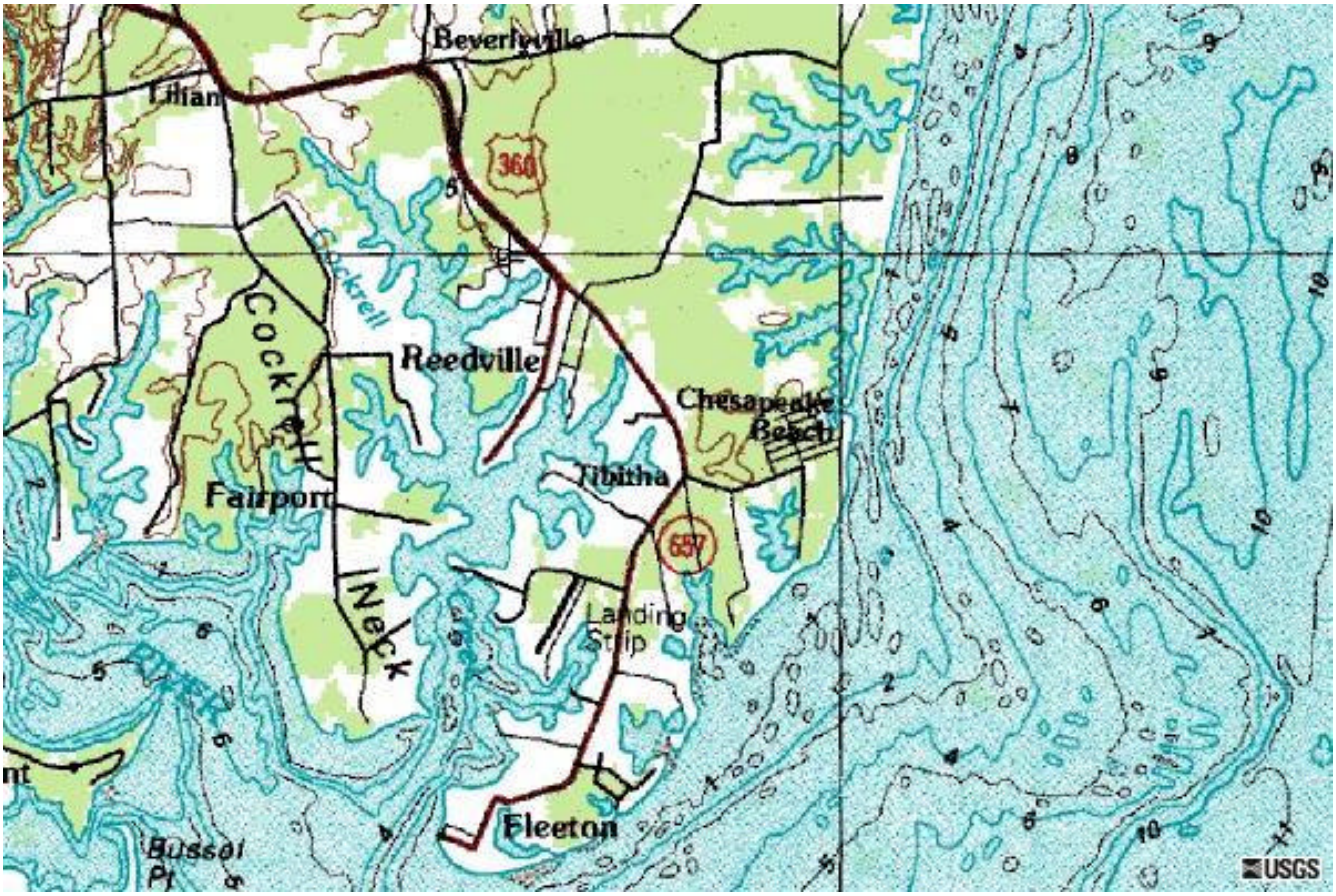
The VDH-DSS collects monthly seawater samples at over 2,000 stations in the shellfish growing areas of Virginia. Though they continuously monitor sample data for unusual events, they evaluate shellfish growing areas on an annual basis. The annual review uses data from the most recent 30 samples (typically 30 months), collected randomly with respect to weather and tide. 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 are assumed to 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 Owens Pond, Little Taskmakers Creek, and Big Fleets Pond watersheds, VAP-C01E, are located in Northumberland County on the west shore of the Chesapeake Bay, and east of the town of Reedville. The drainage area of the Owens Pond, Little Taskmakers Creek, and Big Fleets Pond watersheds is approximately 0.246 square miles. Northumberland County has an estimated population according to the 2006 US Census of 12,820, the population per square mile is 63.75. Also there are about 2.2 people per home estimated in 2007 Census data,

Some portions of shellfish growing areas are either permanently or seasonally closed to direct shellfish harvesting due to the presence of either marinas or wastewater treatment facility discharges. In these cases, DSS uses a computer model to determine the size and shape of the closure area based on the potential fecal input, *e.g.*, number of boats in a marina or the number of gallons of sewage permitted for the treatment facility. DSS is careful to ensure that a sufficient area is closed to protect public health under even high pollution events without condemning excessive waters. There were no permitted marinas or wastewater treatment facilities in the Owens Pond, Little Taskmakers Creek, or Big Fleets Pond watersheds.

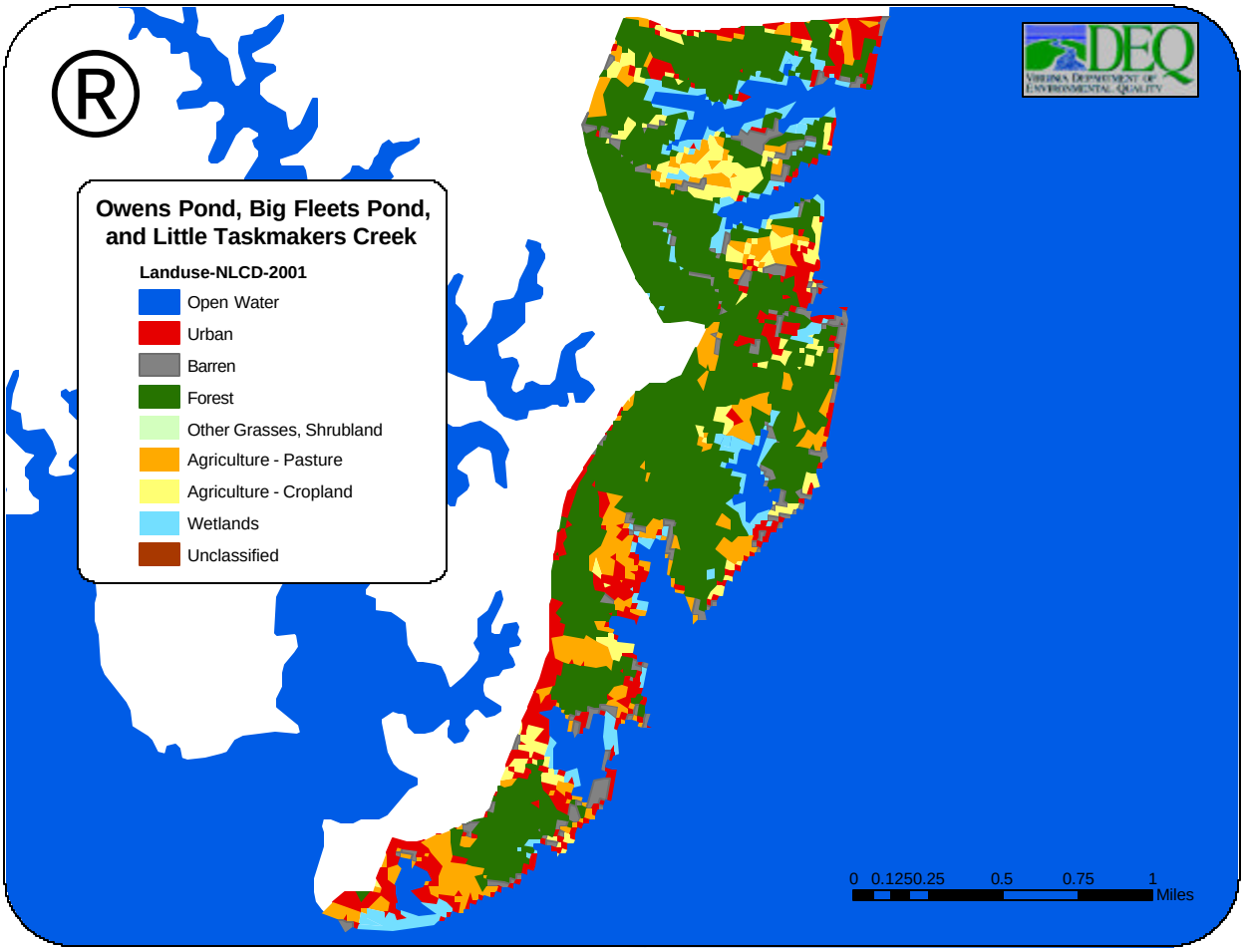
Figure 3.0 Owens Pond, Little Taskmakers Creek, Big Fleets Pond and Tributaries Topographic Map



Land Use

Land uses in the individual watersheds are shown in Figures 3.1 - 3.4 and Tables 3.0 - 3.2. In Owens Pond approximately 45 % of the land use in the watershed is undeveloped forest (See Table 3.0). As the land use area within the watershed is based upon surface area, the 20 % water and 8 % wetland reflect that portion of the watershed area occupied by Owens Pond itself. Agriculture occupies 16 % of the land with 7 % pasture and 9 % crop land. Developed lands, termed urban and commercial, occupy 6 % of the landscape. In Little Taskmakers Creek approximately 22 % of the land use in the watershed is undeveloped forest (See Table 3.1). As the land use area within the watershed is based upon surface area, the 25% water and 6 % wetland reflect that portion of the watershed area occupied by Little Taskmakers Creek itself. Agriculture occupies 18 % of the land with 10 % pasture and 8 % crop land. Developed lands, termed urban and commercial, occupy 21% of the landscape. In UT to Chesapeake Bay (Big Fleets Pond) approximately 9 % of the land use in the watershed is undeveloped forest (See Table 3.2). As the land use area within the watershed is based upon surface area, the 13% water and 13 % wetland reflect that portion of the watershed area occupied by Big Fleets Pond itself. Agriculture occupies 34 % of the land with 34 % pasture and 0 % crop land. Developed lands, termed urban and commercial, occupy 26% of the landscape. Land Use is obtained from the Unites States Geological Survey's National Land Cover Data Set (2001) (USGS NLCD).

Figure 3.1 Owens Pond, Little Taskmakers Creek, Big Fleets Pond and Tributaries Watershed Land Use Map



US Geologic Survey (USGS) National Land Cover Dataset (NLCD), 2002

Table 3.0 Owens Pond Watershed Percentages by Land Use Types

Land Use Type	Acres	Square Miles	Percent
Open Water	121.21	0.19	20%
Urban	38.52	0.06	6%
Barren or Mining	32.81	0.05	5%
Transitional	0	0	0%
Forest	270.45	0.42	45%
Agri - Pasture	42.97	0.07	7%
Agri - Cropland	51.74	0.08	9%
Wetland	46.42	0.07	8%
Totals:	**604.12**	**0.94**	**100%**

Figure 3.2
Owens Pond Land Use Percentages by Type

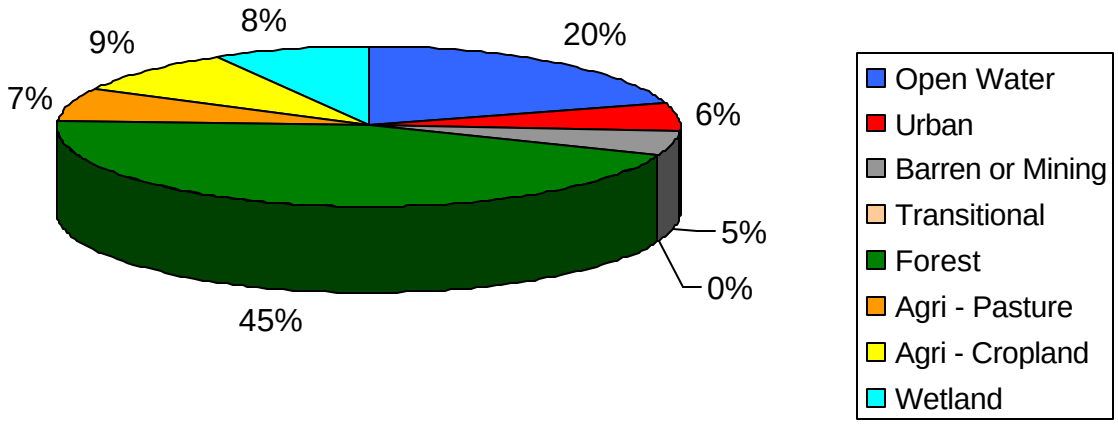


Table 3.1 Little Taskmakers Creek Watershed Percentages by Land Use Types

Land Use Type	Acres	Square Miles	Percent
Open Water	28.59	0.04	24%
Urban	23.57	0.04	21%
Barren or Mining	9.76	0.02	9%
Transitional	0	0	0%
Forest	25.38	0.04	22%
Agri - Pasture	10.9	0.02	10%
Agri - Cropland	8.71	0.01	8%
Wetland	7.03	0.01	6%
Totals:	**113.94**	**0.18**	**100%**

Figure 3.3
Little Taskmakers Creek Land Use Percentages by Type

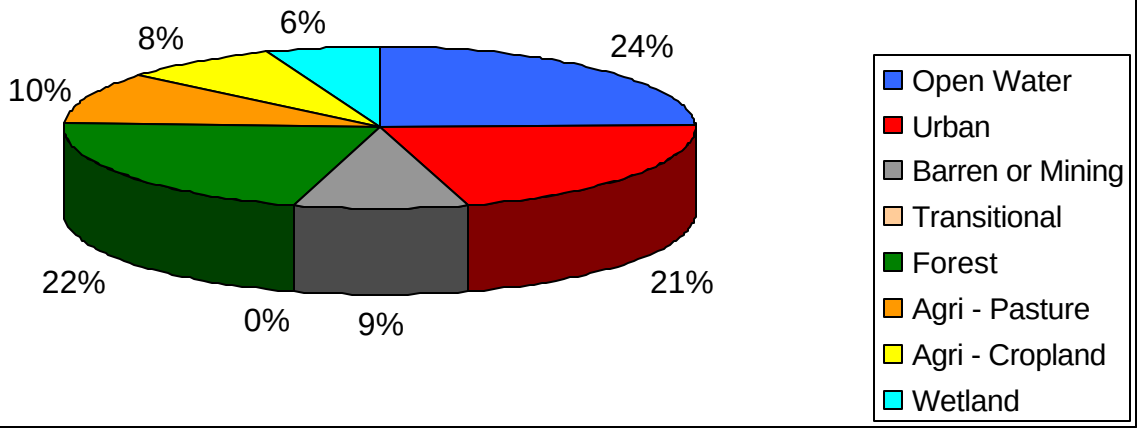
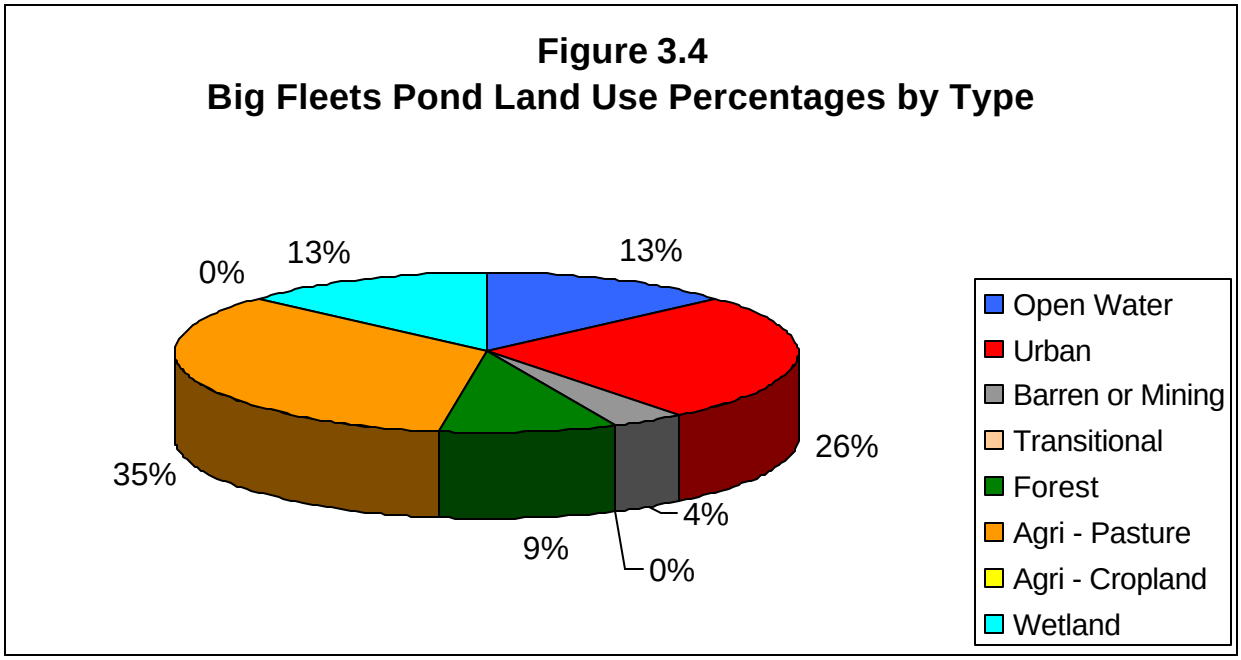


Table 3.2 UT to Chesapeake Bay (Big Fleets Pond) Watershed Percentages by Land Use Types

Land Use Type	Acres	Square Miles	Percent
Open Water	9.73	0.02	13%
Urban	20.34	0.03	26%
Barren or Mining	3.04	0	4%
Transitional	0	0	0%
Forest	7.32	0.01	9%
Agri - Pasture	26.59	0.04	35%
Agri - Cropland	0.293	0	0%
Wetland	9.85	0.02	13%
Totals:	**77.163**	**0.12**	**100%**



3.1 Geology and Soils

Owens Pond, Little Taskmakers Creek, Big Fleets Pond, and Tributaries are in the Atlantic Coastal Plain physiographic region. The Atlantic Coastal Plain is the easternmost of Virginia's physiographic provinces. The Atlantic Coastal Plain extends from New Jersey to Florida and includes all of Virginia east of the Fall Line. The Fall Line is the easternmost extent of rocky-river rapids, the point at which east-flowing rivers cross from the hard, igneous and metamorphic rocks of the Piedmont to the relatively soft, unconsolidated strata of the Coastal Plain. The Coastal Plain is underlain by layers of Cretaceous and younger clay, sand, and gravel that dip gently eastward. These layers were deposited by rivers carrying sediment from the eroding Appalachian Mountains to the west. As the sea level rose and fell, fossiliferous marine deposits were inter-layered with fluvial, estuarine, and beach strata. The youngest deposits of the Coastal Plain are sand, silt and mud presently being deposited in our bays and along our beaches.

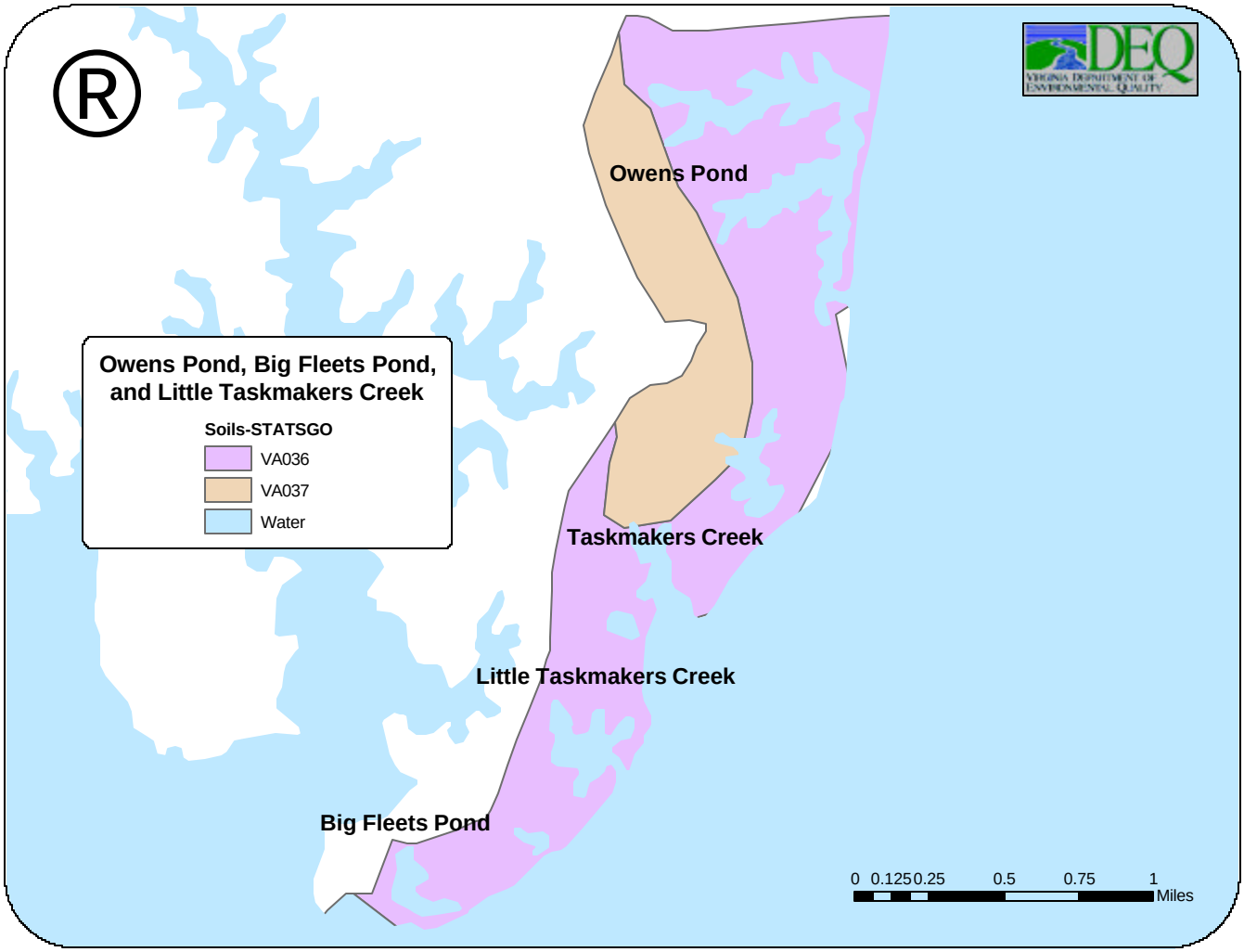
Soils for Owens Pond, Little Taskmakers Creek, Big Fleets Pond, and Tributaries watershed were documented utilizing the VA State Soil Geographic Database (STATSGO). Two general soil types were identified using in this database. Descriptions of these soil series were derived from queries to the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS)

Official Soil Series Description web site (http://ortho.ftw.nrcs.usda.gov/cgi-bin/osd/osdname.cgi). Figure 3.5 shows the location of these general soil types in the watershed.

Soils of the Tetotum-Nansemond-State-Emporia-Dragston-Nimmo-Bladen Series (VA036) are very deep and range from well drained to poorly drained. Permeability ranges from moderately rapid and/or rapid to moderately slow or slow. This soil series was formed in sandy or loamy fluvial and marine sediments on Coastal Plain uplands and stream terraces.

Soils of the Bibb and Levy-Bohicket-Lumbee-Nansemond-Rumford-Tetotum-State-Suffolk (VA037) are very deep to deep, and vary from well drained to very poorly drained. They range in slope from 0 – 15 percent. Their water capacity varies from low to high. This soils series was formed in sandy to loamy to mucky clay alluvial and marine sediments on the upper Coastal Plain and stream terraces.

Figure 3.5 Owens Pond, Little Taskmakers Creek, Big Fleets Pond, & Tributaries Soils Map



4.0 Water Quality Impairment and Bacterial Source Assessment

4.1 Water Quality Monitoring

The water quality monitoring network for Owens Pond and Little Taskmakers Creek consists of 5 monitoring stations throughout the embayment. There are two monitoring stations located throughout the Owens Pond impaired area, there is one monitoring station in the Little Taskmakers Creek impairment, there is one station in Big Fleets Pond, and one station in Taskmakers Creek. These stations are monitored by the VDH-DSS for fecal bacteria. The locations of the water quality monitoring stations utilized for this study are shown in Figures 4.0.

This TMDL study examined bacterial monitoring data at these stations for a period from December 1984 through July 2008. A summary of water quality data from the stations in or bordering condemned areas of maximum extent for the monitoring period preceding the TMDL study (historic data) is shown in Table 4.2.

Graphs depicting the geometric mean and 90th percentile fecal coliform levels for the condemned areas of Owens Pond are shown in Figures 4.1A and 4.1B, and graphs for Taskmakers Creek are in Figures 4.2A and 4.2B. Graphs 4.3A and 4.3B show the geometric mean and 90th percentile for Little Taskmakers Creek, and figures 4.4A and 4.4B show data for Big Fleets Pond. The closures in the growing areas are characterized based on all monitoring stations (see Figure 4.0) in the closure areas.

4.2 Condemnation Areas

The impaired segment of Owens Pond was initially listed as impaired on Virginia's 1998 303(d) water quality standard for fecal coliform bacteria in shellfish supporting waters. The impaired segment of Little Taskmakers Creek was listed as impaired on Virginia's 1998 303(d) water quality standard for fecal coliform bacteria in shellfish supporting waters. The impaired segment of Big Fleets Pond was listed as impaired on Virginia's 2000 303(d) water quality standard for fecal coliform bacteria in shellfish supporting waters. However, the TMDL used the VDH-DSS condemnation area dated March 9, 2005 for Owens Pond, and the VDH-DSS condemnation area dated January 27, 2006 for Little Taskmakers Creek and Big Fleets Pond because they presented the condemnation area of maximum extent to date. This results in the most protective load allocations. Detailed maps of the shellfish condemnation area and its associated water quality stations are available from the Virginia Department of Health, Division of Shellfish Sanitation. A Map of the condemnation area is shown in Figure 4.0. Copies of the original, 1998, and 2002 condemnation notices are in Appendix A.

4.3 Fecal Coliform Bacteria Source Assessment

The locations of shoreline deficiencies from the DSS shoreline survey and locations of wastewater treatment facilities are shown in Figure 4.5.

A. Point Source

There are no point source Virginia Pollution Discharge and Elimination (VPDES) permitted wastewater treatment plants, General Permits, or Stormwater permits that contribute to the impaired segments of this watershed.

B. Non-Point Source

Nonpoint sources of fecal coliform do not have one discharge point but may occur over the entire shoreline of the receiving water. Fecal coliform bacteria deposited on the land surface build up over time. During rain events, surface runoff transports water, sediment and bacteria to waterways. 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 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 represent a background level of bacterial loading.

Figure 4.0 Owens Pond, Little Taskmakers Creek, Big Fleets Pond and Tributaries Collective Watershed Condemnation Map

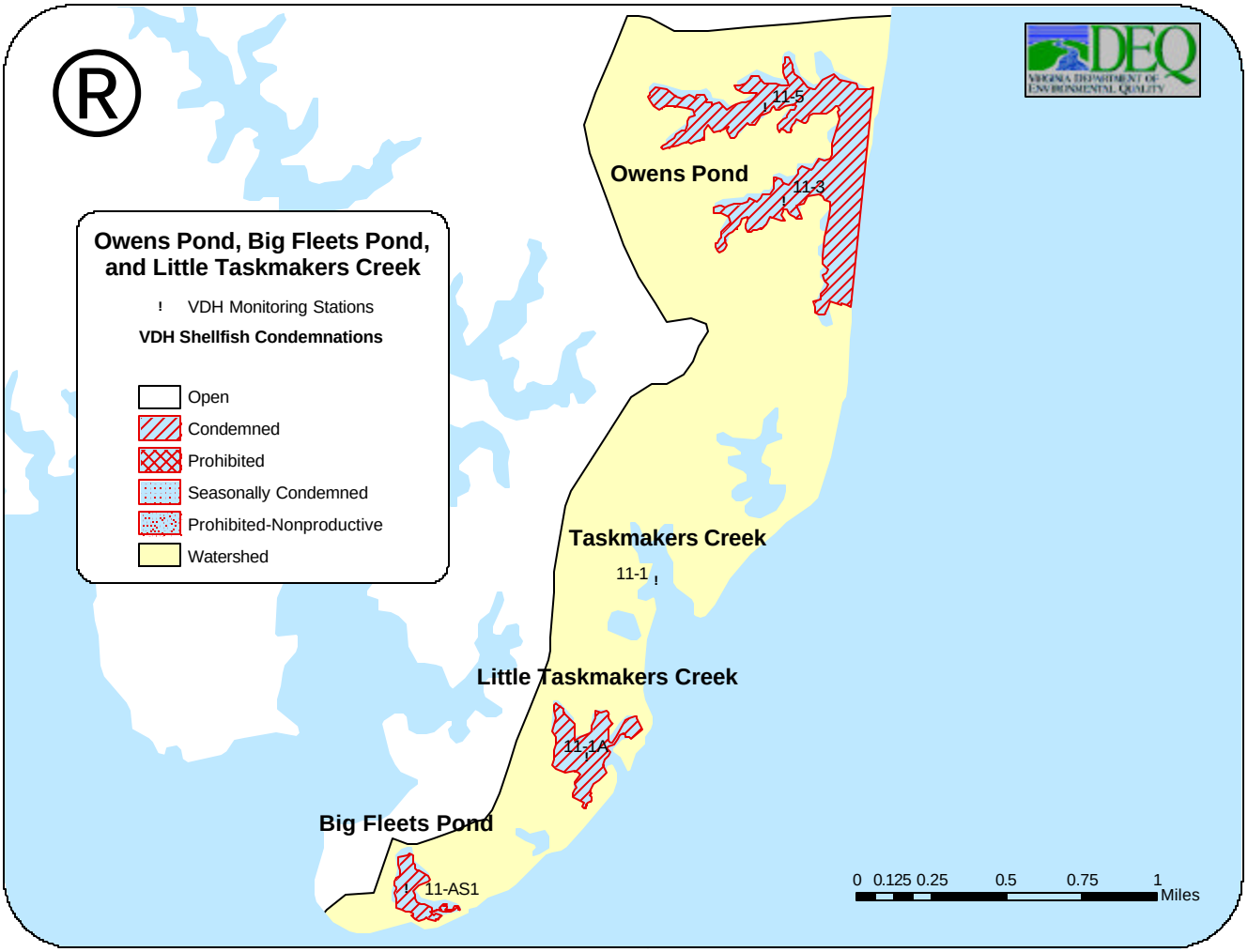


Table 4.0 Domestic Animals and Septic Systems observed contributing pollution for Owens Pond and Little Taskmakers Creek (As sited in VDH Sanitary Survey 2007 and visual observations from DEQ staff 2009)

Fecal Coliform Sources	Owens Pond & Little Taskmakers Creek
Septic (human)	3

Table 4.1 Livestock and Wildlife population estimates for individual and collective watersheds

Livestock and Wildlife Population Estimates for Collective Watersheds								
	Cattle	**Chickens**	**Horses**	**Dogs**	**Deer**	**Raccoons**	**Ducks**	**Geese**
Owens Pond	0	0	0	13	60	26	175	130
Little Taskmakers Creek	0	0	0	11	2	8	59	44
Big Fleets Pond	0	0	0	6	12	9	15	65
Total for Collective Watershed	0	0	0	30	74	43	249	239

(Data from DGIF and VIMS-CCRM)

Table 4.2 Water Quality Data Summary:
Growing Area 011 Owens Pond, Little Taskmakers Creek and Big Fleets Pond

Station	Condemnation Area	Total Observations (one/Month)	Geometric Mean	Station Violates Geometric Standard: 14 MPN	90th Percentile	Station Violates 90th Percentile Standard: 49 MPN
11-3	**122 – Owens Pond**	**262**	**26.47**	**Yes**	**243.45**	**Yes**
11-5	**122 – Owens Pond**	**254**	**33.39**	**Yes**	**326.79**	**Yes**
11-1A	**190 – Little Taskmakers Creek**	**189**	**37.11**	**Yes**	**306.12**	**Yes**
11-AS1	**190 – Big Fleets Pond**	**148**	**65.87**	**Yes**	**616.79**	**Yes**
11-1	**Taskmakers Creek**	**262**	**11.04**	**No**	**52.55**	**No***

*** The first five 30 month 90th Percentiles in 1987 exceeded 49 cfu/100/ml, and this has not happened again in the last 21 years.**

Figure 4.1 A

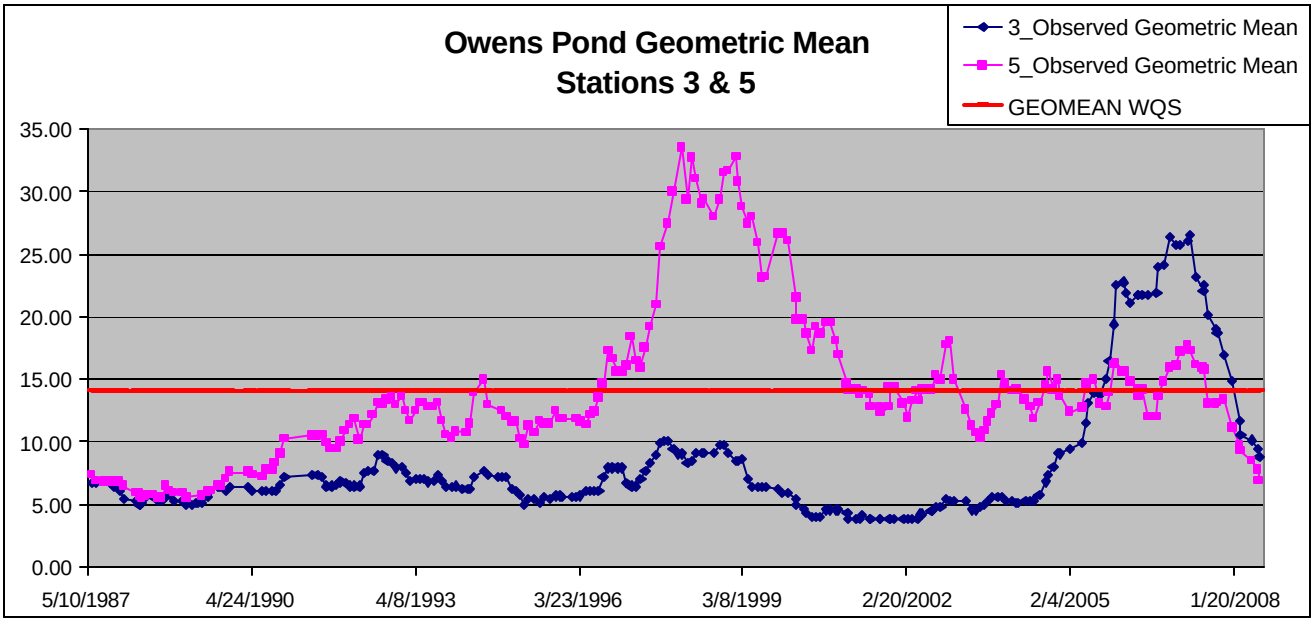


Figure 4.1 B

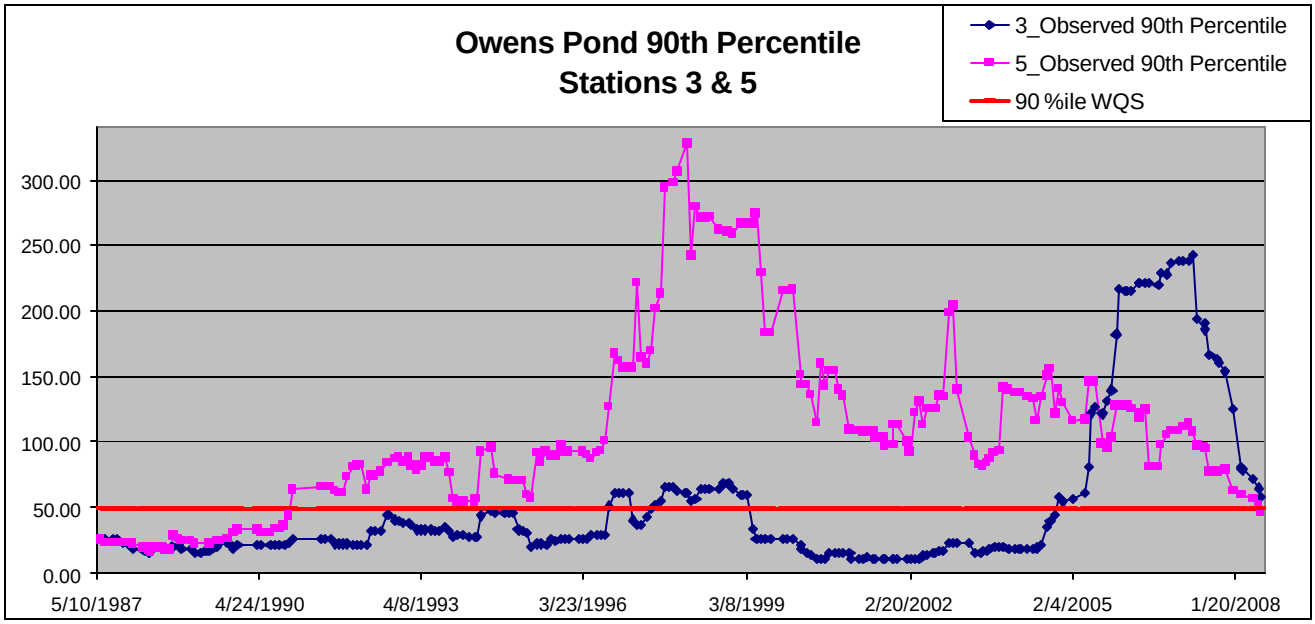


Figure 4.2 A

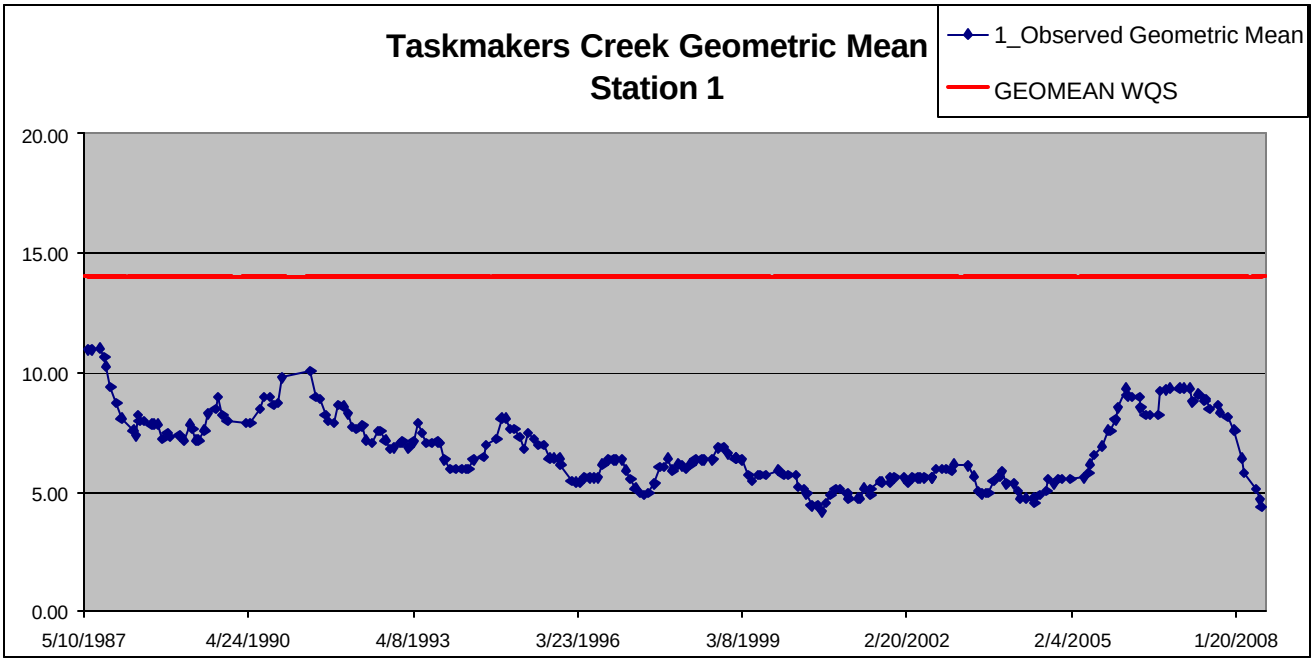


Figure 4.2 B

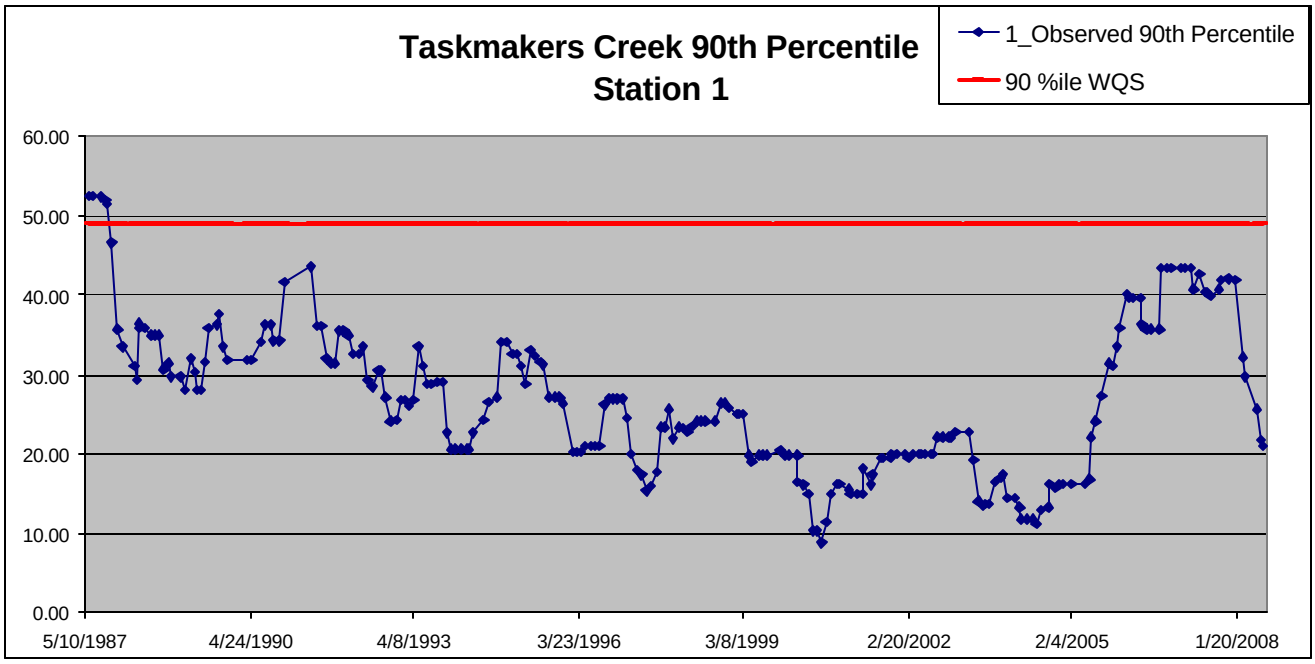


Figure 4.3 A

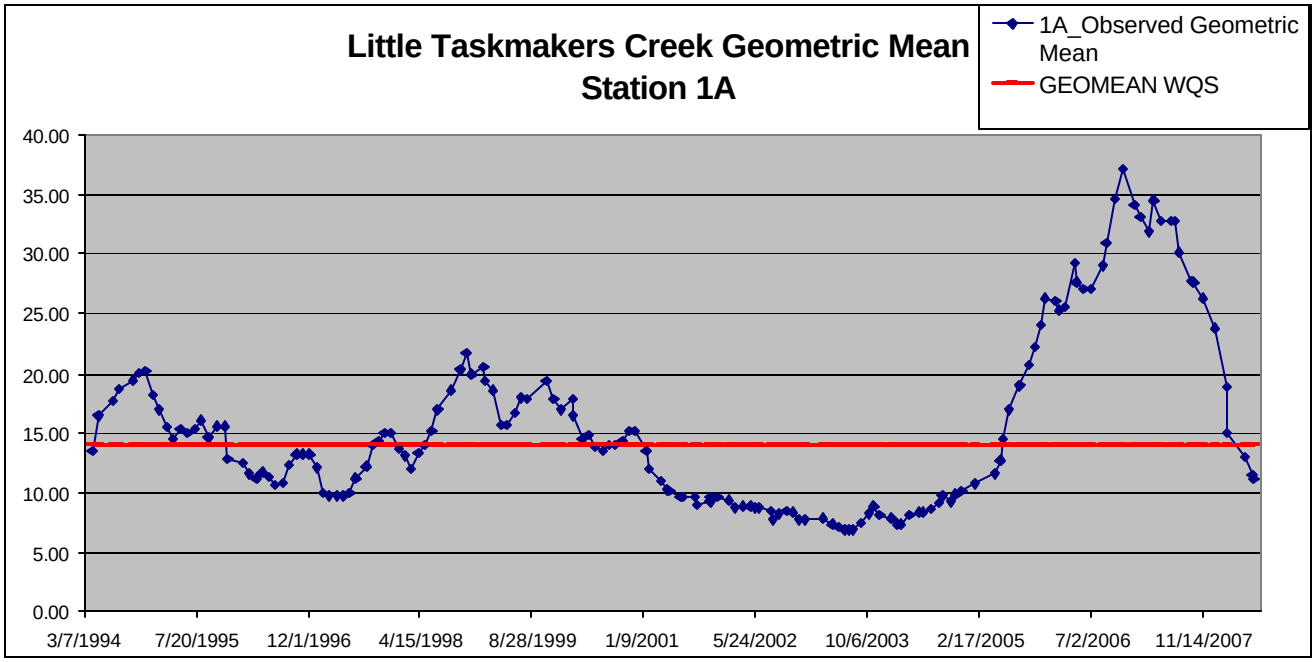


Figure 4.3 B

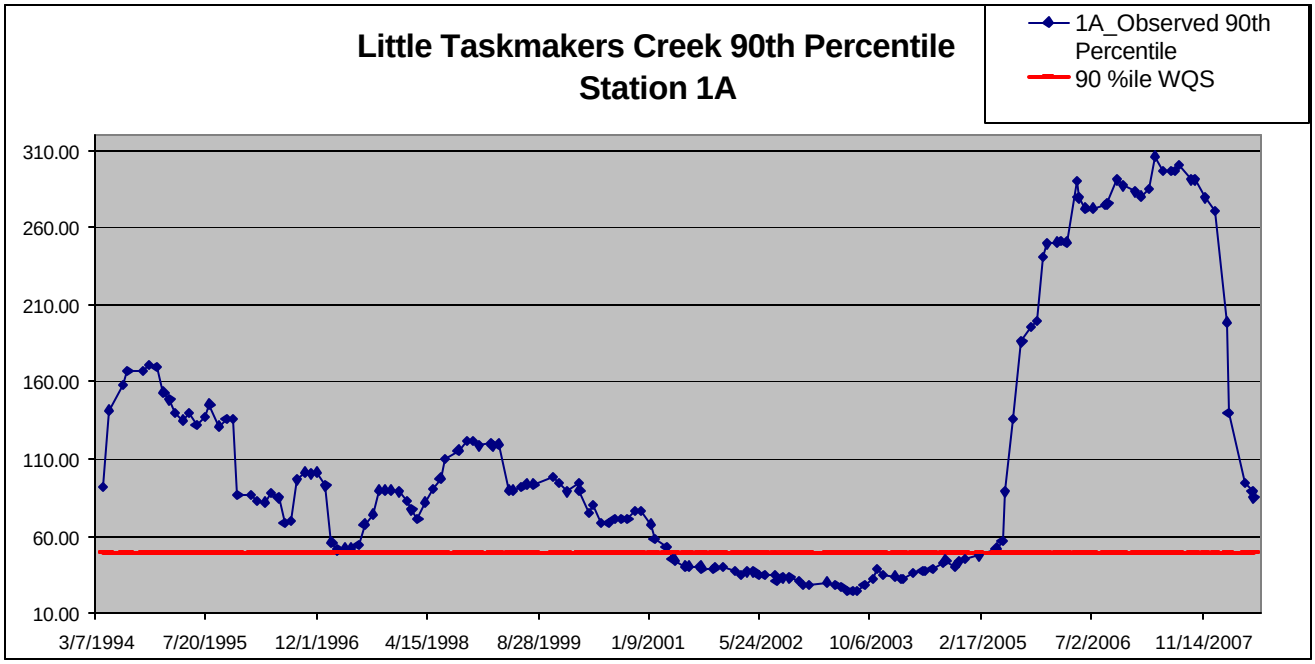


Figure 4.4 A

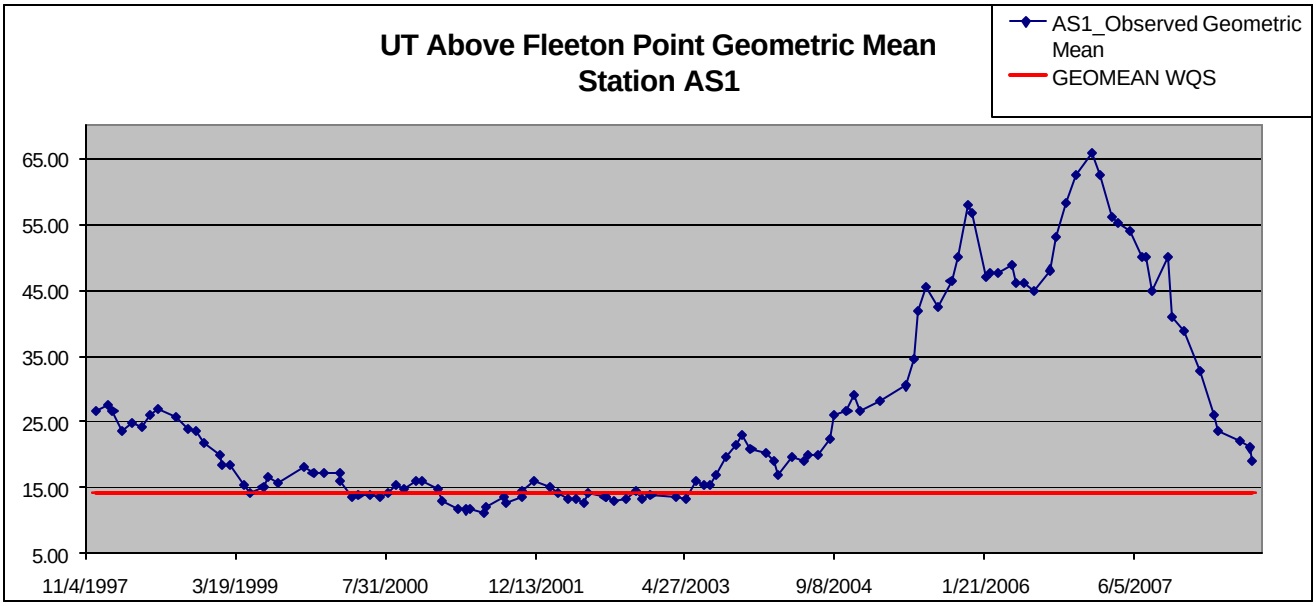


Figure 4.4 B

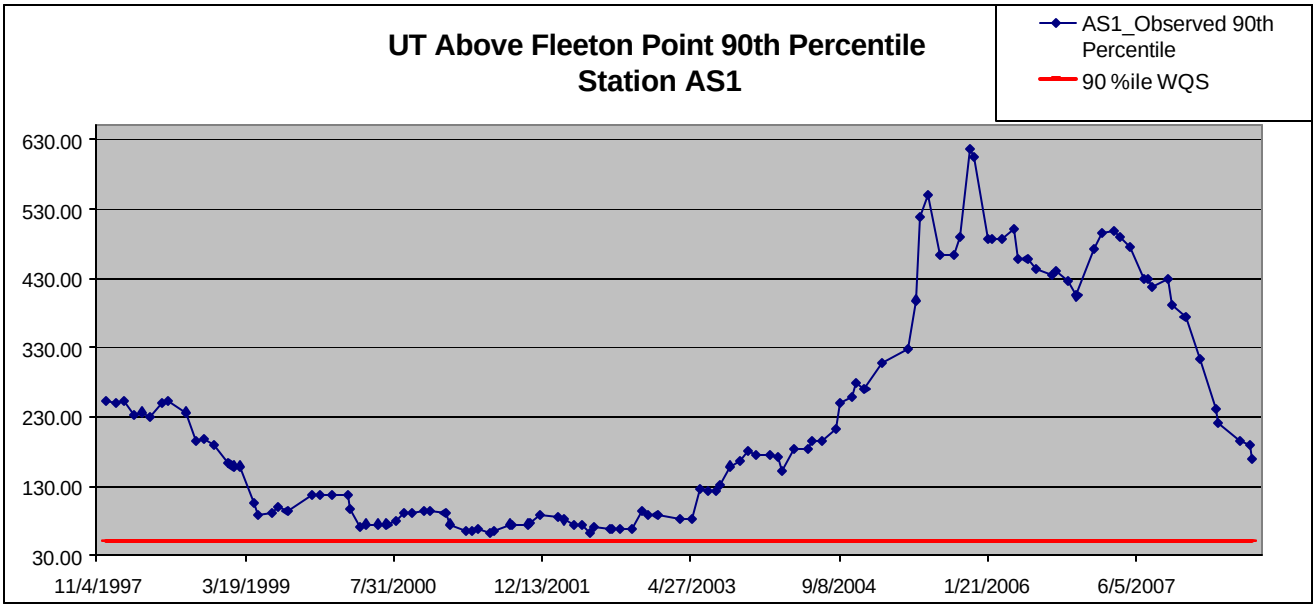
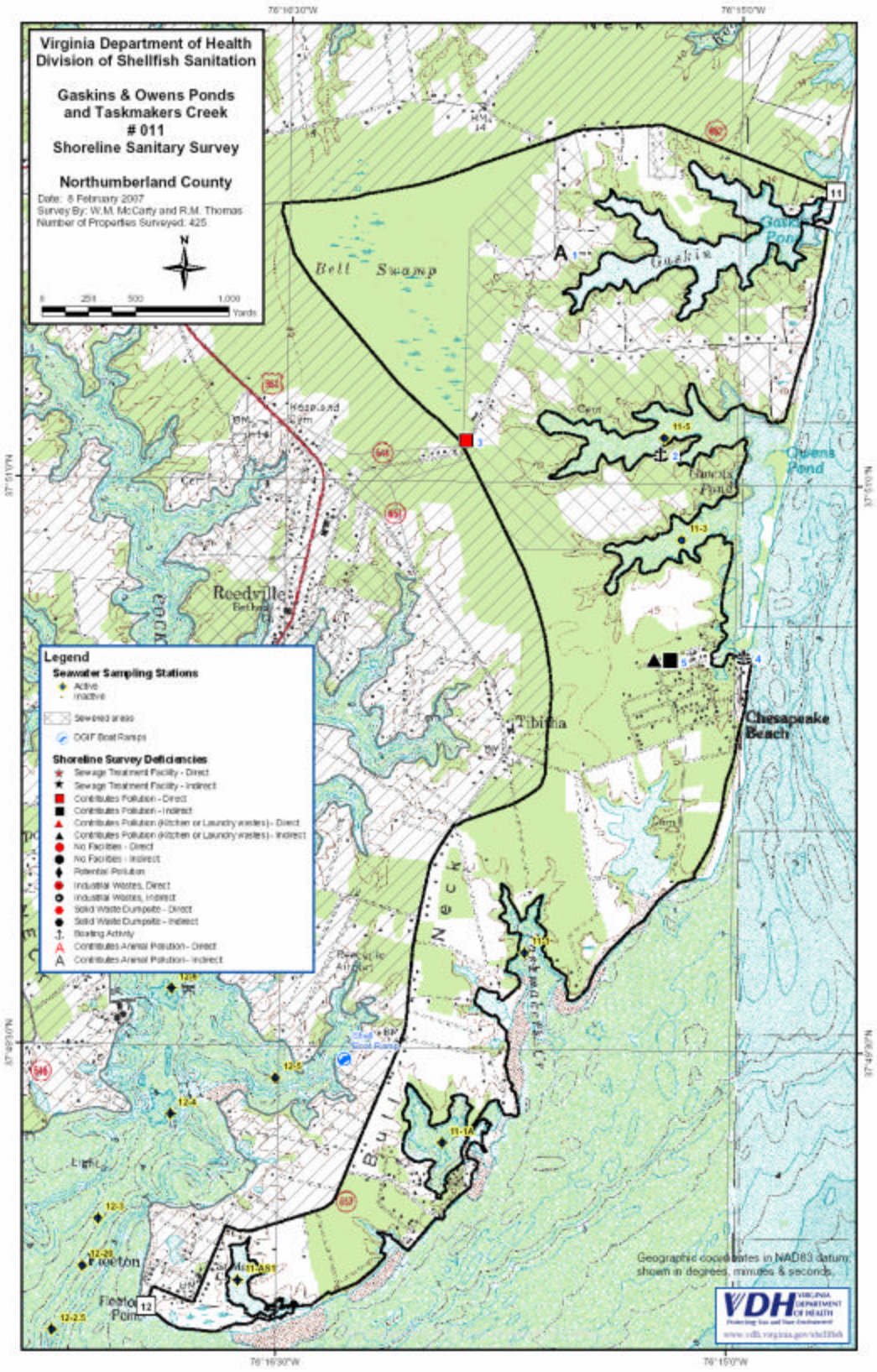


Figure 4.5. Virginia Department of Health – Department of Shellfish Sanitation Shoreline Sanitary Survey Map for Owens Pond and Little Taskmakers Creek.



Wildlife & Livestock

Estimations of the populations of livestock and wildlife, as well as numbers of septic systems within the watershed are shown in Tables 4.0 and 4.1. Appendix B: Supporting Documentation and Watershed Assessment, provides a description of calculation method and a list of population data sources.

Land Applications

There are no records of permitted biosolid applications (human sewage sludge) within these watersheds. There is no record of poultry litter deliveries in the vicinity of these creeks and there are very few crop fields where the litter could be applied within the watershed. Citizens of the watershed could not verify that any poultry litter applications had taken place.

VDH-DSS Sanitary Shoreline Survey

The shoreline survey is used as a tool to identify nonpoint source contribution problems and locations. Figure 4.4 shows the results of the DSS sanitary shoreline surveys for Owens Pond and Little Taskmakers dated 2007. The survey identified 3 onsite sewerage deficiencies, 2 boating sources, and 1 animal source. Shoreline surveys are updated every 8 years however a spreadsheet showing the corrected violations within the watersheds is updated on a regular basis and is available from the VDH-DSS. The update indicated that 1 violation had been corrected since the 2007 sanitary survey. The update does not include any violations observed since the previous survey. Copies of the textual portion of these surveys were included in Appendix A.

4.4 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, livestock, and wild animals will have significantly different patterns of resistance to a variety of antibiotics. The Antibiotic Resistance Analysis (ARA) uses *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 inexact technique that is still under evaluation and error exists in correctly assigning *E. coli* isolates to the appropriate fecal sources. BST is a general tool for making a broad determination of bacterial source, therefore BST percentages should not be considered precise.

The BST sampling period was October 2005 through September 2006. The target sampling interval was once monthly. Table 4.3 shows the BST sampling stations and number of samples for Owens Pond and Little Taskmakers Creek. Table 4.4 shows the BST for Owens Pond and Table 4.5 shows the BST for the Little Taskmakers Creek growing area. For each station where BST was collected, BST percentages were weighted by the number of isolates, the E. coli concentration, and the volume. Thus the higher the number of isolates, the E. coli concentration and the volume, the more weight an individual sample was given in calculating the BST source percentages. The BST weighted percentage chart for Owens Pond is shown in Figure 4.6 and Little Taskmakers Creek is shown in Figure 4-7. The BST shows that in Owens Pond the largest percentage source was wildlife, followed by livestock, human and an insignificant level of pet, and for Little Taskmakers Creek the largest percentage source was wildlife followed by human, pet and an insignificant level of livestock. These

values were used as a tool for non-point source allocations in deriving the Total Maximum Daily Loads for Owens Pond and Little Taskmakers Creek.

Table 4.3 Summary of VDH-DSS bacterial sampling in Owens Pond & Little Taskmakers Creek.

Station Number	Station ID	DSS Area	HUP	County	Impairment	# Times Plates Received
5	11-5	011	C01E	Northumberland	Owens Pond	11
1A	11-1A	011	C01E	Northumberland	Little Taskmakers Creek	12

Table 4.4 Bacterial Source Tracking for Chesapeake Bay: Owens Pond at Station 11-5.

Station ID	Date of Sample	Number of Isolates	E.coli Conc.	Wildlife	Human	Livestock	Pet
11-5	10/24/05	24	43	**25%**	**71%**	0%	4%
11-5	11/22/05	23	240	**70%**	4%	**17%**	9%
11-5	12/9/05	13	3.6	**31%**	**61%**	0%	8%
11-5	1/24/06	2	2.9	100%	0%	0%	0%
11-5	2/6/06	NVI	3.6	NVI	NVI	NVI	NVI
11-5	4/20/06	4	3.6	0%	75%	0%	25%
11-5	5/2/06	8	9.1	63%	25%	12%	0%
11-5	6/1/06	24	43	**29%**	**55%**	4%	**12%**
11-5	7/5/06	16	9.1	**37%**	**25%**	**19%**	**19%**
11-5	8/26/06	3	2.9	33%	67%	0%	0%
11-5	9/12/06	24	150	**12%**	**21%**	**63%**	4%

BOLD type indicates a statistically significant value.
NVI – No viable isolates.

Table 4.5 Bacterial Source Tracking for Chesapeake Bay: Little Taskmakers Creek at Station 11-1A.

Station ID	Date of Sample	Number of Isolates	E.coli Conc.	Wildlife	Human	Livestock	Pet
11-1A	10/24/05	23	23	0%	**100%**	0%	0%
11-1A	11/22/05	23	460	**57%**	**26%**	4%	**13%**
11-1A	12/9/05	24	43	**21%**	**42%**	4%	**33%**
11-1A	1/24/06	7	3	71%	0%	0%	29%
11-1A	2/6/06	NVI	3.6	NVI	NVI	NVI	NVI
11-1A	3/7/06	7	3.6	29%	57%	14%	0%
11-1A	4/20/06	24	240	**71%**	4%	8%	**17%**
11-1A	5/2/06	16	7.3	**44%**	**44%**	0%	12%
11-1A	6/1/06	24	23	**46%**	**21%**	**29%**	4%
11-1A	7/5/06	24	93	**38%**	**29%**	8%	**25%**
11-1A	8/26/06	14	23	**21%**	**21%**	14%	**44%**
11-1A	9/12/06	24	23	**21%**	**67%**	12%	0%

BOLD type indicates a statistically significant value.
NVI – No viable isolates
* Anomalies in the laboratory results may indicate improper handling of the filter plates prior to delivery to the laboratory.

Table 4.6 Weighted Average BST
Growing Area 011: Owens Pond and Little Taskmakers Creek

Condemnation Area	Livestock	Wildlife	Human	Pet
11-5 Owens Pond	29%	43%	21%	7%
11-1A Little Taskmakers Creek	6%	54%	24%	16%

Figure 4.6 Owens Pond BST Percentages

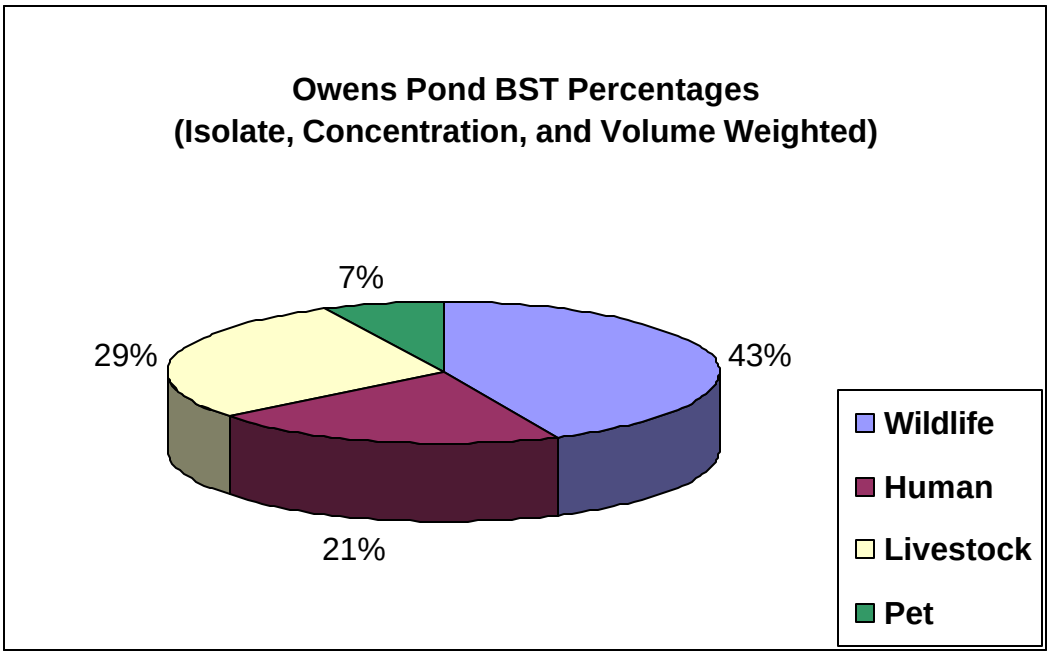
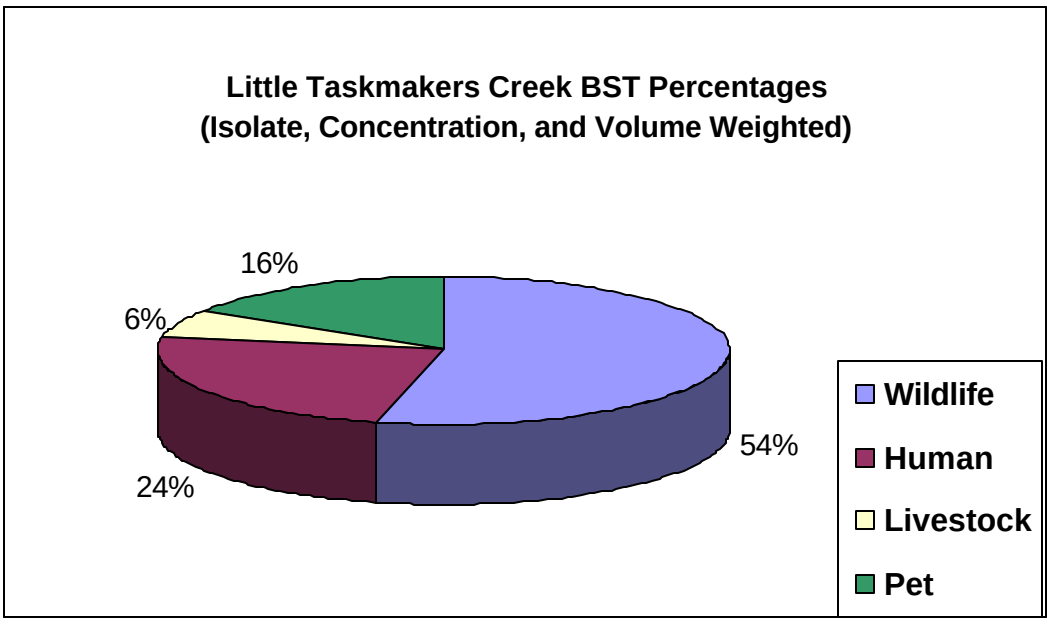


Figure 4.7 Little Taskmakers Creek BST Percentages



5.0 TMDL Development

Virginia DEQ and the Virginia Department of Health collaborated to use a simplified volumetric approach to develop the TMDL. The goal of the procedure is to use bacteriological source tracking (BST) data to determine the sources of fecal coliform violations and bathymetric data to estimate the estuarine volumes and load reductions needed to attain the applicable criteria.

5.1 The TMDL Calculation

To meet the water quality standards for both geometric mean and 90th percentile criteria, TMDLs for the impaired segments in the watershed are defined for the geometric mean load and the 90th percentile load. The TMDL for the geometric mean essentially represents the allowable average limit and the TMDL for the 90th percentile is the allowable upper limit. If observed data were available for more than one monitoring station in a condemned area, the volume-weighted values for each condemned area were used to represent the embayment concentration.

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 multiplied by the volume. The period of record for the monitoring data used to determine the current condition is 1984 to 2008. This interval was chosen to ensure inclusion of the data that represents the conditions at the time Owens Pond, and Little Taskmakers Creek were first listed as impaired in 1998. The maximum values for geometric mean and 90th percentile multiplied by the volume were used to represent the current loads. Therefore, the current loads represent the worst case scenario observed.

B. Geometric Mean Analysis:

The current load was estimated using the worst case 30-sample geometric mean multiplied by the estuarine volume calculated by bathymetry. The allowable load was calculated using the water quality standard of 14 MPN/100ml multiplied by the volume. 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 equation as follows. The calculated results are listed in Table 5.0.

The load reduction is estimated as follows:

Geometric Mean Value (# 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 5.0 Geometric Mean Analysis of Current Load and Estimated Load Reduction

Condemnation Area	Volume (m^3)	Geometric Mean Fecal Coliform (MPN/100ml)	Geometric Mean W.Q. Standard Fecal Coliform (MPN/100ml)	Current Load (MPN/day)	TMDL Allowable Load (MPN/day)	Required Reduction (%)
011-5 Owens Pond	318571	33.39	14	1.06E+11	4.46E+10	58.1%
011-1A Little Taskmakers Creek	74916	37.11	14	2.78E+10	1.05E+10	62.3%
011-190B Big Fleets Pond	27998	65.87	14	1.84E+10	3.92E+9	78.7%

C. 90th Percentile Analysis

The current load was estimated using the worst case 30-sample 90^{th} percentile concentration multiplied by the estuarine volume calculated by bathymetry. The allowable load was calculated using the water quality standard of 49 MPN/100ml multiplied by the volume. The load reduction needed for the attainment of the water quality standard was determined by subtracting the allowable load from the current load. The calculated results are listed in Table 5.1. The load reduction is estimated as follows:

90^{th} percentile Value (# MPN/100ml) x (volume) = Existing Load

Criteria Value (49 MPN/100ml) x (volume) = Allowable Load

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

Table 5.1 90^{th} Percentile Analysis of Current Load and Estimated Load Reduction

Condemnation Area	Volume (m^3)	90^{th} Percentile Fecal Coliform (MPN/100ml)	90^{th} Percentile W.Q. Standard Fecal Coliform (MPN/100ml)	Current Load (MPN/day)	TMDL Allowable Load (MPN/day)	Required Reduction (%)
011-122A Owens pond	318571	326.79	49	1.04E+12	1.56E+11	85%
011-190A Little Taskmakers Creek	74916	306.12	49	2.29E+11	3.67E+10	84%
011-190B Big Fleets Pond	27998	616.79	49	1.73E+11	1.37E+10	92.1%

5.2 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 because the 90th percentile criterion is most frequently exceeded and requires the greatest reduction. 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. Please see Figures 4.1A through 4.4B for visual examples of how the 90th percentile criterion is more conservative than that of the Geometric mean.

Based on the 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 the representative percentages. The percent reduction needed to attain the water quality standard or criterion is allocated to each source category. This is shown in Table 5.2 and serves to fulfill the TMDL requirements by ensuring that the criterion is attained.

Table 5.2 Reductions/Allocations Based on 90th Percentile Standard: Owens Pond, Little Taskmakers Creek, and Big Fleets Pond.

Condemnation Area	Fecal Type	BST Allocation % of Total Load	Current Load MPN/ day	Load Allocation MPN/ day	Reduction Needed
011-5 Owens Pond	Wildlife	43%	4.47 E+11	1.56 E+11	65%
	Human	21%	2.18 E+11	0.00 E+0	100%
	Livestock	29%	3.02 E+11	0.00 E+0	100%
	Pets	7%	7.28 E+10	0.00 E+0	100%
	Total	**100%**	**1.04 E+12**	**1.56 E+11**	**85%**
011-1A Little Taskmakers Creek	Wildlife	54%	1.24 E+11	3.67 E+10	70.4%
	Human	24%	5.50 E+10	0.00 E+00	100%
	Livestock	6%	1.37 E+10	0.00 E+00	100%
	Pets	16%	3.66 E+10	0.00 E+00	100%
	Total	**100%**	**2.29 E+11**	**3.67 E+10**	**84%**
011-AS1 Big Fleets Pond	Wildlife	54%	9.34 E+10	1.37 E+10	85.3%
	Human	24%	4.15 E+10	0.00 E+00	100%
	Livestock	6%	1.03 E+10	0.00 E+00	100%
	Pets	16%	2.77 E+10	0.00 E+00	100%
	Total	**100%**	**1.73 E+11**	**1.37 E+10**	**92%**

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 human waste is precluded by state and federal law. A 100% reduction in human, livestock, and pet loads is required for Owens Pond, Little Taskmakers Creek, and Big Fleets Pond to achieve the shellfish bacterial water quality standard. It may be difficult to attain the water quality standard by the largest feasible reductions in human, pet and livestock sources, as shown by the reductions in wildlife load predicted above. This is discussed in

Section 6.3D below. Through an iterative implementation of actions to reduce the controllable loads, subsequent monitoring may indicate that no further reductions are necessary or that revisions in implementation strategies may be appropriate. Continued violations may result in the process of Use Attainment Analysis (UAA) for the waterbody (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.

A. Development of Wasteload Allocations

There are no permitted point source discharges in the watershed. No permitted facility waste load is considered in this TMDL. However, a wasteload allocation for future growth of 1 percent of the total load allocation is included in the TMDL.

5.3 Consideration of Critical Conditions and Seasonal Variation

EPA regulations at 40 CFR 130.7 (c)(1) require 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 waterbody 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 waterbody was determined using the highest 30 month sample set in the long-term record of water quality monitoring (observation) data. The period of record for the data was 1984 to 2008. 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 highest 90^{th} percentile 30 month sample set from the period of record represents the most stringent conditions. 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 waterfowl populations are accounted for by the use of the long-term data record to estimate the current load.

5.4 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. A MOS is either numeric or implicit in the design of the TMDL. In this TMDL the MOS is implicit in the conservative assumptions used in the load calculations, such as using the worst case bacterial concentrations in current load calculations, resulting in the highest and most protective percent reductions.

5.5 TMDL Summary

To meet the water quality standards for both geometric mean and 90th percentile criteria, The TMDL for Owens Pond and Little Taskmakers Creek is defined for both the geometric mean load and the 90th percentile load, as required by USEPA. The TMDL is summarized in the Tables 5.3 and 5.4.

Table 5.3 TMDL Summary for the Closures in Owens Pond, Little Taskmakers Creek, and Big Fleets Pond Watershed (Geometric Mean)

Condemnation Area	Pollutant Identified	TMDL MPN/day	Waste Load Allocation MPN/day (Future Growth)	Load Allocation MPN/day	Margin of Safety
011-5 Owens Pond	Fecal Coliform	4.46 E+10	4.46 E+08	4.42 E+10	Implicit
011-1A Little Taskmakers Creek	Fecal Coliform	1.05 E+10	1.05 E+08	1.04E+10	Implicit
011-AS1 Big Fleets Pond	Fecal Coliform	3.92 E+09	3.92 E+07	3.88 E+09	Implicit

Table 5.4 TMDL Summary for the Closures in Owens Pond, Little Taskmakers Creek, and Big Fleets Pond Watershed (90th Percentile)

Condemnation Area	Pollutant Identified	TMDL MPN/day	Waste Load Allocation MPN/day	Load Allocation MPN/day	Margin of Safety
011-5 Owens Pond	Fecal Coliform	1.56 E+11	1.56 E+09	1.54 E+11	Implicit
011-1A Little Taskmakers Creek	Fecal Coliform	3.67 E+10	3.67 E+08	3.63 E+10	Implicit
011-AS1 Big Fleets Pond	Fecal Coliform	1.37 E+10	1.37 E+08	1.36 E+10	Implicit

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 Owens Pond and Little Taskmakers Creek watersheds. 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 should be taken to reduce pollution levels in the waterbody. These measures, which can include the use of better treatment technology, the installation of best management practices (BMPs) and designation of No Discharge Zones, 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 Manual," published in July 2003 and available upon request from the DEQ and DCR TMDL project staff or at http://www.deq.state.va.us/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, having 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 waterbodies. This has been shown to be very effective in lowering fecal coliform concentrations in waterbodies, 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 sewered areas, reducing the loading from leaking sewer lines could be accomplished through a sanitary sewer inspection and management program. Pump-outs of septic tanks are recommended every 5 years and are required by the Chesapeake Bay Act.

Though the BST analysis did not indicate pets as a significant source of fecal coliform in the Owens Pond and Little Taskmakers Creek, there is the possibility that there is a pet population that is seasonal. Pet poop-scooping education and septic systems for large kennels or hunt clubs could be beneficial to Northumberland County as a whole.

Education could be made available to homeowners, farmers, and businesses concerning the importance of maintaining the Chesapeake Bay Act's requirement of observing a 100' riparian buffer along all creeks and tributaries of the Bay. Protecting existing buffers in addition to restoring buffers which have been destroyed are potentially inexpensive but exceptionally effective methods of reducing runoff which carry with it bacteria, nutrients, and even chemicals to the Bay. Riparian buffers serve as "strainers" which prevent the entry of such components to the waterway.

In waterbodies with significant boat traffic, the designation of a No Discharge Zone should effectively reduce bacterial loads to the impaired segments. A No Discharge Zone in the Lynnhaven River in Virginia Beach, VA., resulted in a major portion of the estuary being opened for shellfish harvesting in the past two years for the first time in memory.

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 TMDL loading calculations.
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.
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 Owens Pond and Little Taskmakers Creek. The efforts and work of such groups as the Northern Neck Land Conservancy (riparian buffer through land conservation) or agencies such as the Northern Neck Soil and Water Conservation Districts (state and local agencies), the Northumberland Association of Progressive Stewardship, and the Tidewater Oyster Growers Association (citizen education on non-point sources) would be beneficial during the implementation planning for development of BMPs.

6.3 Reasonable Assurance for Implementation

A. 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.

B. 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 wasteload 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.

C. Implementation Funding Sources

One potential source of funding for TMDL implementation is Section 319 of the Clean Water Act. 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, the Virginia Agricultural Best Management Practices Cost Share Program, the

Chesapeake Bay Restoration Fund, the Virginia Environmental Endowment, the National Fish and Wildlife Foundation, 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.

D. Addressing Wildlife Contributions

In some waters for which TMDLs have been developed, water quality source identification indicates that even after removal of all of the sources of bacteria (other than wildlife), the stream may 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 special study called a Use Attainability Analysis (UAA) may be initiated to reflect the presence of naturally high bacteria levels due to uncontrollable sources, including wildlife. 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.state.va.us/wqs/WQS03AUG.pdf

7.0 Public Participation

During development of the TMDL for Owens Pond and Little Taskmakers Creek watershed, public involvement was encouraged through a public participation process that included public meetings and stakeholder meetings.

The first technical advisory committee and public meetings were held on January 21, 2009. A basic description of the TMDL process and the agencies involved was presented and a discussion was held regarding the source assessment input, bacterial source tracking, and load calculations. Public understanding of and involvement in the TMDL process was encouraged. Input from these meetings was utilized in the development of the TMDL and improved confidence in the allocation scenarios and TMDL process. The TMDL load allocations were presented during the second public meeting held on March 12, 2009. The public meeting was advertised in the local media, signs were posted around the watershed, and email invitations were sent to local government and stakeholders. There was one public comment received.

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.

Biosolids. Also known as Sewage sludge, is the name for the solid, semisolid, or liquid materials removed during the treatment of domestic sewage in a treatment facility. Biosolids include, but are not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic septage, portable toilet pumpings, Type III marine sanitation device pumpings, and sewage sludge products. When properly treated and processed, sewage sludge becomes "biosolids" which can be safely recycled and applied as fertilizer to improve and maintain productive soils and stimulate plant growth.

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 waterbody 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 waterbody 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 waterbody 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 waterbody.

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 waterbody 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.

Poultry Litter. A material used as bedding in poultry operations to render the floor more manageable. Common materials are wood shavings, sawdust, peanut hulls, straw and other dry absorbent, low-cost organic materials.

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 waterbody; 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 waterbody. 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 waterbody, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular waterbody, 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

Bacterial Source Tracking Analyses to Support Virginia's TMDLs: Shellfish Stations. December 2004. Map Tech Inc. in cooperation with New River Highlands RC & D. Blacksburg, Virginia

US EPA Shellfish Workshop Document (2002).

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

10.0 Appendices

Appendix A Growing Area 11: Shoreline 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 E Public Comments

Appendix A: Growing Area 11: Shoreline Sanitary Survey and Condemnation Notices

GASKINS AND OWENS PONDS AND TASKMAKERS CREEK
Growing Area #011
Northumberland County
Shoreline Sanitary Survey

Date: 8 February 2007
Survey Period: September 8, 2006 – February 5, 2007
Total Number of Properties Surveyed: 425
Surveyed By: W.M. McCarty and R.M. Thomas

SECTION A: GENERAL

This survey area extends from Reference Point 11 at the end of State Route 652 (extended to shoreline) to Reference Point 12 at Fleeton Point, including the Chesapeake Bay shoreline between these two points, Gaskins Pond, Owens Pond, Salt Pond, Taskmakers Creek, Little Taskmakers Creek and all of their tributaries.

The topography of the area varies in elevation from 5' or less along the shoreline to a maximum of 10' near the western edge of the survey boundary. The population density is sparse. The more densely populated areas are located in the subdivisions of Chesapeake Beach Estates and Fleeton Beach. The economy is based primarily on tourism and the fishing industry.

Meteorological data indicated that the area received a total rainfall of 21.52" for the survey period. A monthly breakdown is as follows:

September 22–30, 2006 3.19" December 2.03"
October 5.80" January 2007 4.02"
November 6.11" February 1-2 0.37"

There are a significant number of properties in the entire survey area that have been connected to the Reedville sewage system since the last survey was conducted. Fleeton, Fleeton Beach, and Chesapeake Beach Estates all have the option of connecting to the system. Twin Harbors, a relatively new subdivision, is entirely connected to the sewage system. Only a few active septic systems still exist along State Route 652 near Reference Point 11.

The current restrictions on shellfish harvesting are Condemned Shellfish Area # 011-122, Chesapeake Bay: Owens Pond , effective 9 March 2005, and Condemned Shellfish Area # 011-190, Chesapeake Bay: Little Taskmakers Creek, effective 27 January 2006. Copies of Bacteriological, Hydrographic and Shellfish Closure data are available at the area office for review. Copies of the current condemnation notices and maps are available via the Internet at http://www.vdh.virginia.gov/oehs/shellfish/.

This report lists only those properties that have a sanitary deficiency or have other environmental significance. "***DIRECT***" indicates that the significant activity or deficiency has a direct impact on shellfish waters. 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. Data in the report is also made available to local health departments and other agencies to address items that may be out of compliance with their regulatory programs

SECTION B: SEWAGE POLLUTION SOURCES

SEWAGE TREATMENT FACILITIES

-None-

ON-SITE DEFICIENCIES

3. CONTRIBUTES POLLUTION, DIRECT – Location: 393 Blackberry Road, Reedville 22539. Dwelling – 1 story off white wood siding with white trim. Effluent erupting onto ground surface three hundred feet from Owens Pond. Sanitary notice issued 10/20/06 to field # A73.

5. CONTRIBUTES POLLUTION - Location: 182 Lane Road, Reedville, VA 23226. Dwelling – crème house trailer with red shutters. Clean out cap missing from 4" PVC line to tank. Sanitary Notice issued 2/2/07 to field # B280.

CONTRIBUTES POLLUTION (Kitchen or Laundry Wastes) – 1" PVC line from 1" black flex hose emanating from under floor to ground. Sanitary Notice issued 2/2/07 to field #

B280.

POTENTIAL POLLUTION

-None-

SECTION C: NON-SEWAGE WASTE SITES

-None-

INDUSTRIAL WASTES

-None-

SOLID WASTE DUMPSITES

-None-

SECTION D: BOATING ACTIVITY

MARINAS

-None-

OTHER PLACES WHERE BOATS ARE MOORED

-None

UNDER SURVEILLANCE

2. Twin Harbors Subdivision, end of Twin Harbor Road, Reedville 22539. Owner: Virginia Land and Forest Corporation, Route 4 Box 3, Heathsville 22473. The only Boating service provided is an in-out ramp. There is no sewage disposal system in place.

4. Chesapeake Beach Estates Homeowners Association Boat Ramp and Pier, Reedville, VA 23226. Owner: Chesapeake Beach Estates Homeowners Association, Reedville, VA 23226. The only boat service provided is an in-out ramp.

SECTION E: CONTRIBUTES ANIMAL POLLUTION

1. Location: 1080 Blackberry Road, Reedville 22539. Dwelling – 1 story tan T-111 Siding with white trim. 1 person. Present at time of survey were 125 chickens. Manure left on ground.

SUMMARY

AREA # 011

GASKINS AND OWENS PONDS AND TASKMAKERS CREEK

8 February 2007

SECTION B: SEWAGE POLLUTION SOURCES

1. SEWAGE TREATMENT FACILITIES

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

2. ON-SITE SEWAGE DEFICIENCIES

Correction of deficiencies in this section is the responsibility of the local health department.
1 – CONTRIBUTES POLLUTION, DIRECT – # 3
1 – CONTRIBUTES POLLUTION, INDIRECT – # 5
0 – CP – (Kitchen or Laundry Wastes), DIRECT – None
1 – CP - (Kitchen or Laundry Wastes), INDIRECT - # 5
0 – NO FACILITIES, DIRECT – None
0 – NO FACILITIES, INDIRECT – None
3 – B.2. TOTAL

3. POTENTIAL POLLUTION

Periodic surveillance of these properties will be maintained to determine any status change.
0 – POTENTIAL POLLUTION – None

SECTION C: NON-SEWAGE WASTE SITES

1. INDUSTRIAL WASTE SITES

0 – DIRECT – None
0 – INDIRECT None
0 – C.1. TOTAL

2. SOLID WASTE SITES

0 – DIRECT – None
0 – INDIRECT – None
0 – C.2. TOTAL

SECTION D: BOATING ACTIVITY

0 – MARINAS – None
0 – OTHER PLACES WHERE BOATS ARE MOORED – None
2 – UNDER SURVEILLANCE – # 2, 4
2– D. TOTAL

SECTION E: CONTRIBUTES ANIMAL POLLUTION

0 – DIRECT – None
1 – INDIRECT – # 1

1 – E. TOTAL

BAE→JMG

C01

Grow Area, 1

COMMONWEALTH of VIRGINIA

Topo; 145D

C. M. G. BUTTERY, M.D., M.P.H.
STATE HEALTH COMMISSIONER

Department of Health
P. O. BOX 2448
RICHMOND, VA 23218

NOTICE AND DESCRIPTION OF SHELLFISH AREA CONDEMNATION NUMBER 122, CHESAPEAKE BAY: OWENS POND

EFFECTIVE 3 JANUARY 1992

Pursuant to Title 28.1, Chapter 7, §§28.1-175 through 28.1-177, §32.1-20, and §§-6.14:4.1 B16 of the Code of Virginia:

1. Condemned Shellfish Area Number 122, Chesapeake Bay: Owens Pond, is established, effective 3 January 1992. It shall be unlawful for any person, firm, or corporation to take shellfish from area #122 for any purpose, except by permit granted by the Marine Resources Commission, as provided in Section 28.1-179 of the Code of Virginia. The boundaries of the area are shown on map titled "Meachim Creek, Condemned Shellfish Area Number 122, 3 January 1992" which is part of this notice.

2. 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 122

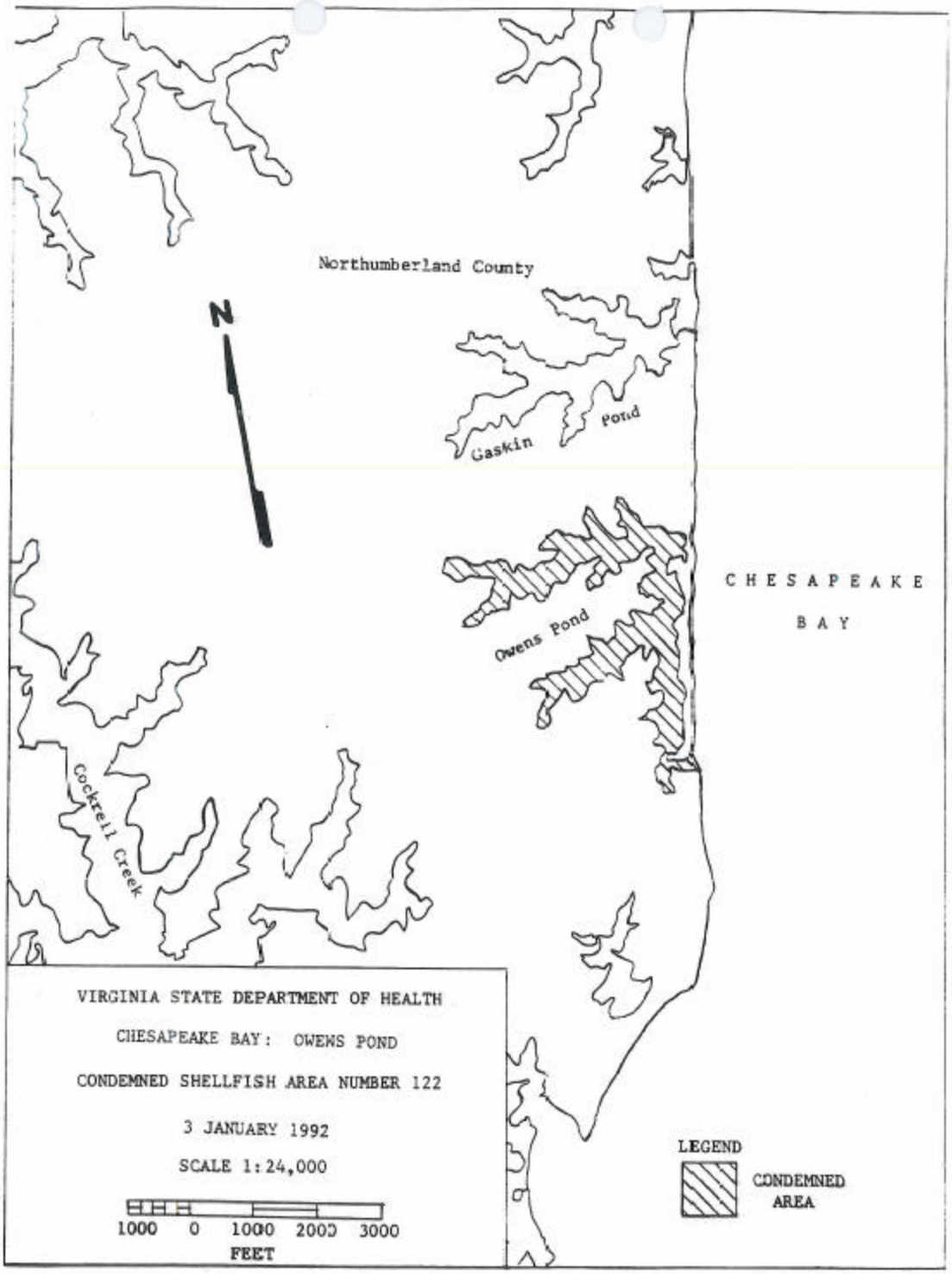
The condemned area includes that portion of Owens Pond and its tributaries lying upstream of a line drawn across the most easterly projections of land at the mouth between the north and south shores. The restriction lines, then, appear as continuations of the Chesapeake Bay shoreline.

Recommended by: Robert E. Greenhawk
Director, Division of Shellfish Sanitation

Ordered by: Robert B. Stroube
State Health Commissioner — 1-3-92 Date

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment

DEC 1991 RECEIVED VWBC Tidewater Regional Office


Northumberland County
N
Gaskin Pond
Owens Pond
CHESAPEAKE BAY
Cockrell Creek
VIRGINIA STATE DEPARTMENT OF HEALTH
CHESAPEAKE BAY: OWENS POND
CONDEMNED SHELLFISH AREA NUMBER 122
3 JANUARY 1992
SCALE 1:24,000
1000 0 1000 2000 3000
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LEGEND
CONDEMNED AREA

2008

REGISTRAR OF REGULATIONS

05 MAR -3 PM 4:23

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 011-122, OWENS POND

EFFECTIVE 9 MARCH 2005

Pursuant to Title 28.2, Chapter 8, §§28.2-803 through 28.2-808, §32.1-20, and §9-6.14:4.1 B16 of the Code of Virginia:

1. The "Notice and Description of Shellfish Area Condemnation Number 011-122, Owens Pond," effective 8 March 2005, is cancelled effective 9 March 2005.

2. Condemned Shellfish Area Number 011-122, shown as Section A is established, effective 9 March 2005. As to Section A, it shall be unlawful for any person, firm, or corporation to take shellfish from this section, 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 boundary of this section is shown on the map titled "Owens Pond, Condemned Shellfish Area Number 011-122, 9 March 2005" 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.

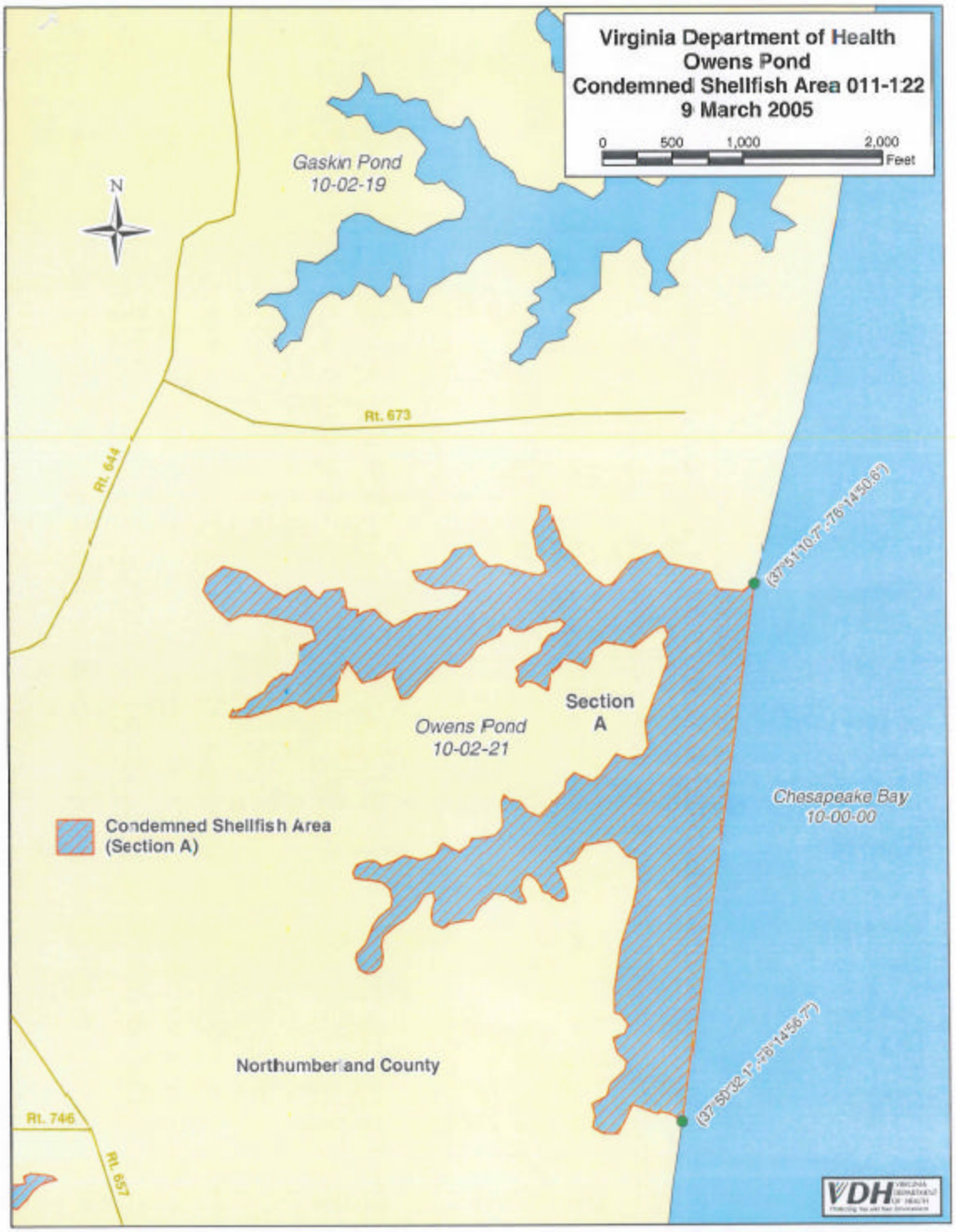
BOUNDARIES OF CONDEMNED AREA NUMBER 011-122

A. The condemned area shall include all of Owens Pond and its tributaries inland and upstream of a line drawn from latitude/longitude map coordinate (37°51'10.7", -76°14'50.6") to map coordinate (37°50'32.1",-76°14'56.7").

Recommended by: _____
for Director, Division of Shellfish Sanitation

Ordered by: _____ 03/02/2005
State Health Commissioner Date

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment
www.vdh.virginia.gov/shellfish


Virginia Department of Health
Owens Pond
Condemned Shellfish Area 011-1:22
9 March 2005
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Gaskin Pond
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Rt. 673
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A
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Chesapeake Bay
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Condemned Shellfish Area
(Section A)
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Rt. 657
VDH

C06 CH6
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Topo: ?

COMMONWEALTH of VIRGINIA

ROBERT B. STROUBE, M.D., M.P.H.
STATE HEALTH COMMISSIONER

Department of Health
P. O. BOX 2448
RICHMOND, VA 23218

NOTICE AND DESCRIPTION OF SHELLFISH AREA CONDEMNATION NUMBER 190, CHESAPEAKE BAY: LITTLE TASKMAKERS CREEK

EFFECTIVE 13 APRIL 1993

Pursuant to Title 28.2, Chapter 8, §§28.2-803 through 28.2-808, §32.1-20, and §9-6.14:4.1 B16 of the Code of Virginia:

1. Condemned Shellfish Area Number 190, Chesapeake Bay: Little Taskmakers Creek, is established, effective 13 April 1993. It shall be unlawful for any person, firm, or corporation to take shellfish from area #190 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 the area are shown on map titled "Chesapeake Bay: Little Taskmakers Creek, Condemned Shellfish Area Number 190, 13 April 1993" which is part of this notice.

2. 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.

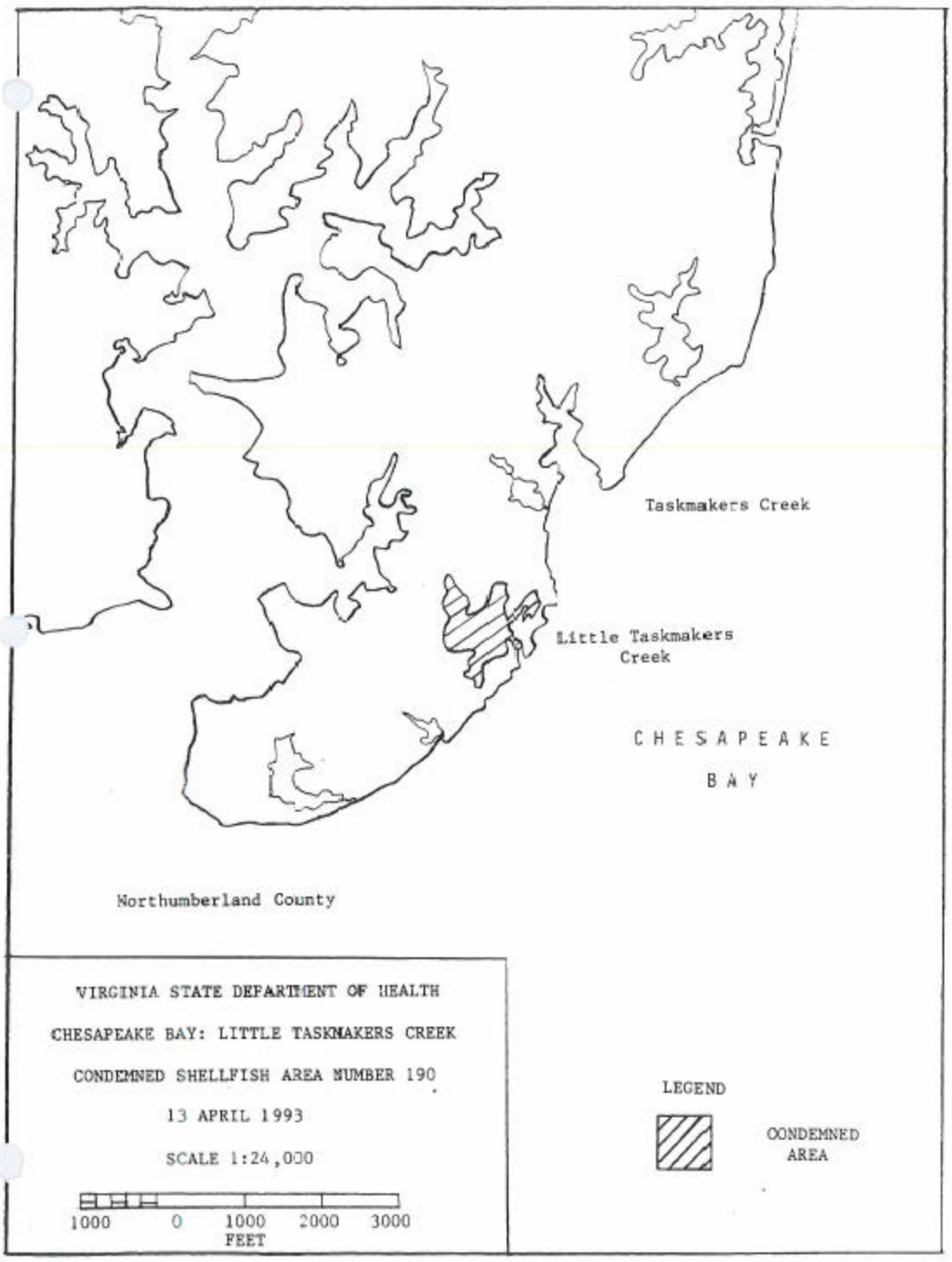
BOUNDARIES OF CONDEMNED AREA NUMBER 190

The condemned area includes that portion of Little Taskmakers Creek and its tributaries lying upstream of a line drawn across the most constricted part of the mouth of the creek.

Recommended by: Robert C. Croxton
Director, Division of Shellfish Sanitation

Ordered by: Robert B. Stroube
State Health Commissioner — 4-13-93 Date

VDH VIRGINIA DEPARTMENT OF HEALTH
Protecting You and Your Environment


Taskmakers Creek
Little Taskmakers Creek
CHESAPEAKE BAY
Northumberland County
VIRGINIA STATE DEPARTMENT OF HEALTH
CHESAPEAKE BAY: LITTLE TASKMAKERS CREEK
CONDEMNED SHELLFISH AREA NUMBER 190
13 APRIL 1993
SCALE 1:24,000
1000 0 1000 2000 3000
FEET
LEGEND
CONDEMNED AREA

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 011-190, LITTLE TASKMAKERS CREEK AND VICINITY

EFFECTIVE 27 JANUARY 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 011-190, Chesapeake Bay: Little Taskmakers Creek and Unknown Tributary," effective 18 February 2004, is cancelled effective 27 January 2006.

2. Condemned Shellfish Area Number 011-190, shown as Sections A and B, is established, effective 27 January 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 "Little Taskmakers Creek and Vicinity, Condemned Shellfish Area Number 011-190, 27 January 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 011-190

A. The condemned area includes all of Little Taskmakers Creek and its tributaries lying upstream of a line drawn between latitude/longitude map coordinate (37°49'19.5", -76°15'44.8") and map coordinate (37°49'17.8",-76°15'47.4").

B. The condemned area includes all of the unnamed tributary east of Fleeton Point and its tributaries lying upstream of a line drawn between latitude/longitude map coordinate (37°48'48.7",-76°16'25.8") and map coordinate (37°48'48.7",-76°16'26.0").

Recommended by: _____
Director, Division of Shellfish Sanitation

Ordered by: _____ 1/11/06
State Health Commissioner Date

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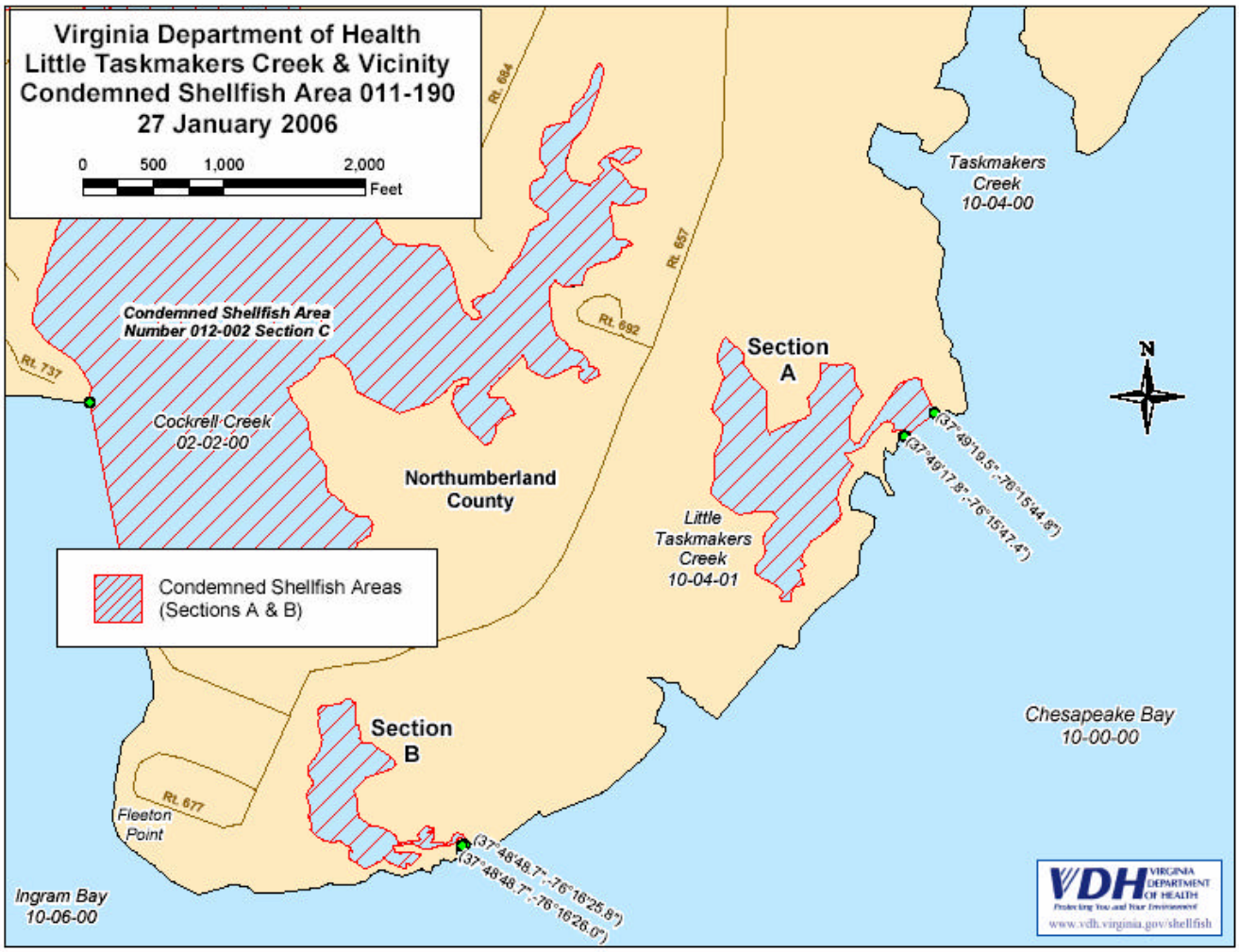
Virginia Department of Health
Little Taskmakers Creek & Vicinity
Condemned Shellfish Area 011-190
27 January 2006
0 500 1,000 2,000
Feet
Rt. 684
Rt. 657
Rt. 692
Rt. 737
Rt. 677
Taskmakers Creek 10-04-00
Condemned Shellfish Area Number 012-002 Section C
Cockrell Creek 02-02-00
Northumberland County
Section A
Little Taskmakers Creek 10-04-01
(37°49'19.5",-76°15'44.8")
(37°49'17.8",-76°15'47.4")
N
Condemned Shellfish Areas (Sections A & B)
Section B
Chesapeake Bay 10-00-00
Fleeton Point
(37°48'48.7",-76°16'25.8")
(37°48'48.7",-76°16'26.0")
Ingram Bay 10-06-00
VDH VIRGINIA DEPARTMENT OF HEALTH
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www.vdh.virginia.gov/shellfish

Appendix B: Supporting Documentation and Watershed Assessment

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

Table 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. judgment
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).

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	2001
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	Potomac River 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 2007
Water quality monitoring stations	Division of Shellfish Sanitation, VA Department of Health	Various dates
Water quality segments	VA Institute of Marine Science and Center for Coastal Resources Management (VIMS-CCRM)	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

1) 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.

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.

Segment volume was determined from current field bathymetry data.

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 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 area 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 area 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 area 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 area 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 there is not a way to incorporate the seasonal differences).

Raccoons—

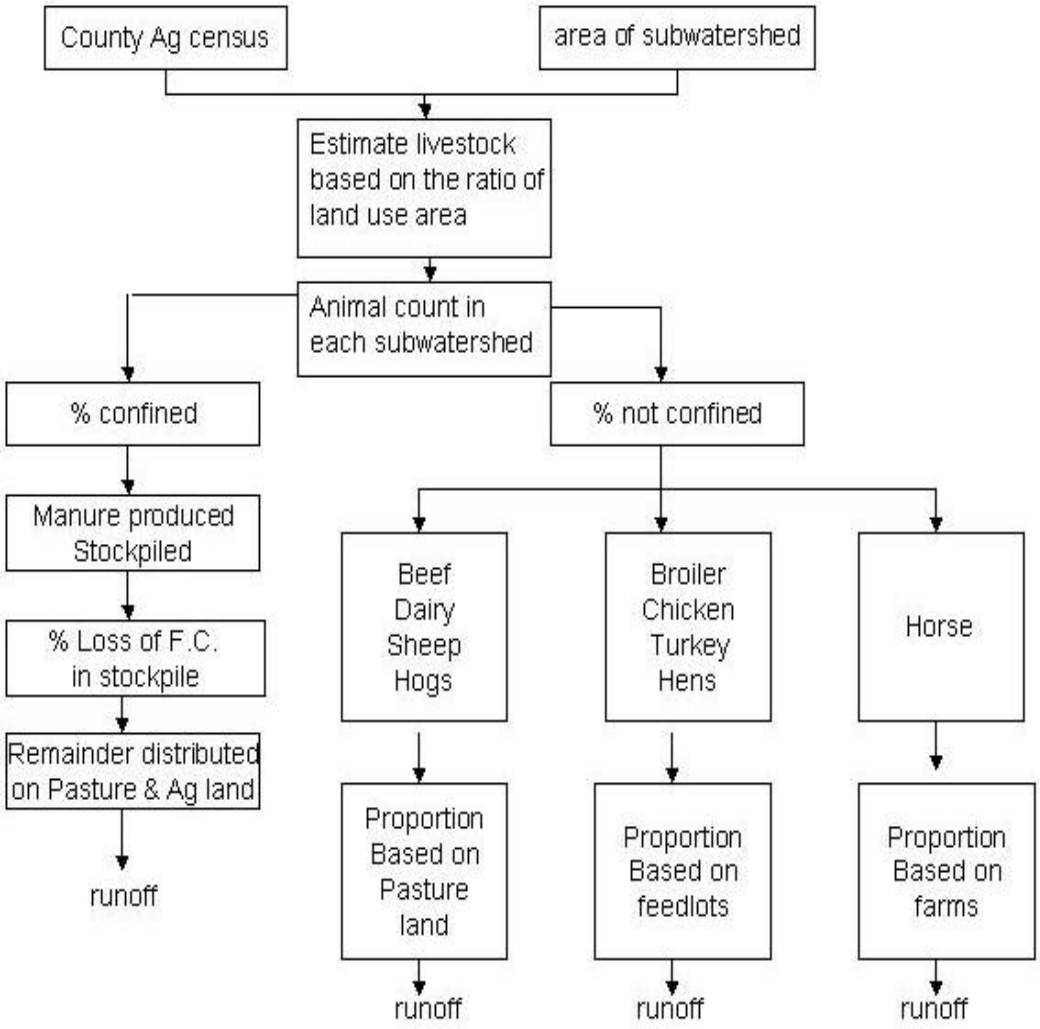
Estimates for raccoon densities were supplied by DGIF for 3 habitats—wetlands (including freshwater and saltwater, forested and herbaceous), along streams, and upland forests. GIS was used to generate a 600ft buffer around the wetlands and streams, and then to overlay this buffer layer with the subwatershed 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.

2) 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. 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: Water Quality Data Summary

Table C.1 Observed Geometric Mean and 90th Percentile by Condemned Area and Station

Condemned Area	VDH-DSS Station Number	Mean of Geometric Means	Standard Deviation of Geometric Means	Mean of the 90th Percentile Means	Standard Deviation of 90th Percentile Means	Last 30 month Sample Geometric mean	Last 30 month Sample 90th Percentile
011-190 Little Taskmakers Creek	**11-1A**	**15.45**	**7.22**	**111.47**	**82.79**	**11.04**	**85.49**
11-122 Owens Pond	**11-3**	**8.26**	**5.27**	**51.44**	**58.50**	**8.77**	**58.63**
	11-5	**14.11**	**6.14**	**110.04**	**66.92**	**6.91**	**47.00**
11-190 Big Fleets Pond	**11-AS1**	**26.23**	**14.93**	**224.75**	**157.43**	**18.93**	**168.88**
Taskmakers Creek	**11-1**	**6.79**	**1.49**	**26.78**	**9.29**	**4.37**	**21.02**

Appendix D:

1) Code of Virginia §62.1-194.1 Obstructing or contaminating state waters.
2) Code of Federal Regulations. Title 33, Volume 2, Parts 120 to 1999
Revised as of July 1, 2000

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 therefore 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.)

D2: Code of Federal Regulations. Title 33, Volume 2, Parts 120 to 1999
Revised as of July 1, 2000 From the U.S. Government Printing Office via GPO Access [CITE: 33CFR159]

NAVIGABLE WATERS

CHAPTER I--COAST GUARD, DEPARTMENT OF TRANSPORTATION (CONTINUED)

PART 159--MARINE SANITATION DEVICES

Subpart A--General

Sec.
159.1 Purpose.
159.3 Definitions.
159.4 Incorporation by reference.
159.5 Requirements for vessel manufacturers.
159.7 Requirements for vessel operators.

Subpart B--Certification Procedures

159.11 Purpose.
159.12 Regulations for certification of existing devices.
159.12a Certification of certain Type III devices.
159.14 Application for certification.
159.15 Certification.
159.16 Authorization to label devices.
159.17 Changes to certified devices.
159.19 Testing equivalency.

Subpart C--Design, Construction, and Testing

159.51 Purpose and scope.
159.53 General requirements.
159.55 Identification.

Authority: Sec. 312(b)(1), 86 Stat. 871 (33 U.S.C. 1322(b)(1)); 49 CFR 1.45(b) and 1.46(l) and (m).

Source: CGD 73-83, 40 FR 4624, Jan. 30, 1975, unless otherwise noted.

Subpart A--General

Sec. 159.1 Purpose.

This part prescribes regulations governing the design and construction of marine sanitation devices and procedures for certifying that marine sanitation devices meet the regulations and the standards of the Environmental Protection Agency promulgated under section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322), to eliminate the discharge of untreated sewage from vessels into the waters of the United States, including the territorial seas. Subpart A of this part contains regulations governing the manufacture and operation of vessels equipped with marine sanitation devices.

Sec. 159.3 Definitions.

In this part:
Coast Guard means the Commandant or his authorized representative.
Discharge includes, but is not limited to, any spilling, leaking, pouring, pumping, emitting, emptying, or dumping.

Existing vessel includes any vessel, the construction of which was initiated before January 30, 1975.
Fecal coliform bacteria are those organisms associated with the intestine of warm-blooded animals that are commonly used to indicate the presence of fecal material and the potential presence of organisms capable of causing human disease.
Inspected vessel means any vessel that is required to be inspected under 46 CFR Ch. I.
Length means a straight line measurement of the overall length from the foremost part of the vessel to the aftermost part of the vessel, measured parallel to the centerline. Bow sprits, bumpkins, rudders, outboard motor brackets, and similar fittings or attachments are not to be included in the measurement.
Manufacturer means any person engaged in manufacturing, assembling, or importing of marine sanitation devices or of vessels subject to the standards and regulations promulgated under section 312 of the Federal Water Pollution Control Act.
Marine sanitation device and device includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.
New vessel includes any vessel, the construction of which is initiated on or after January 30, 1975.
Person means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel.

Public vessel means a vessel owned or bare-boat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce.
Recognized facility means any laboratory or facility listed by the Coast Guard as a recognized facility under this part.
Sewage means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body waste.
Territorial seas means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles.
Type I marine sanitation device means a device that, under the test conditions described in Secs. 159.123 and 159.125, produces an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids.
Type II marine sanitation device means a device that, under the test conditions described in Secs. 159.126 and 159.126a, produces an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter.
Type III marine sanitation device means a device that is designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage.
Uninspected vessel means any vessel that is not required to be inspected under 46 CFR Chapter I.
United States includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands.
Vessel includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the waters of the United States.

[CGD 96-026, 61 FR 33668, June 28, 1996, as amended by CGD 95-028, 62 FR 51194, Sept. 30, 1997]

Sec. 159.4 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the Federal Register; and the material must be available to the public.
All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard Office of Design and Engineering Standards (G-MSE), 2100 Second Street SW., Washington, DC 20593-0001, and is available from the sources indicated in paragraph (b) of this section.
(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

American Society for Testing and Materials (ASTM)
100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

ASTM E 11-95, Standard Specification for Wire Cloth and Sieves for Testing Purposes--159.125

[USCG-1999-5151, 64 FR 67176, Dec. 1, 1999]

Sec. 159.5 Requirements for vessel manufacturers.

No manufacturer may manufacture for sale, sell, offer for sale, or distribute for sale or resale any vessel equipped with installed toilet facilities unless it is equipped with:
(a) An operable Type II or III device that has a label on it under Sec. 159.16 or that is certified under Sec. 159.12 or Sec. 159.12a; or
(b) An operable Type I device that has a label on it under Sec. 159.16 or that is certified under Sec. 159.12, if the vessel is 19.7 meters (65 feet) or less in length.

[CGD 95-028, 62 FR 51194, Sept. 30, 1997]

Sec. 159.7 Requirements for vessel operators.

(a) No person may operate any vessel equipped with installed toilet facilities unless it is equipped with:

(1) An operable Type II or III device that has a label on it under Sec. 159.16 or that is certified under Sec. 159.12 or Sec. 159.12a; or

(2) An operable Type I device that has a label on it under Sec. 159.16 or that is certified under Sec. 159.12, if the vessel is 19.7 meters (65 feet) or less in length.

(b) When operating a vessel on a body of water where the discharge of treated or untreated sewage is prohibited by the Environmental Protection Agency under 40 CFR 140.3 or 140.4, the operator must secure each Type I or Type II device in a manner which prevents discharge of treated or untreated sewage. Acceptable methods of securing the device include--

(1) Closing the seacock and removing the handle;

(2) Padlocking the seacock in the closed position;

(3) Using a non-releasable wire-tie to hold the seacock in the closed position; or

(4) Locking the door to the space enclosing the toilets with a padlock or door handle key lock.

(c) When operating a vessel on a body of water where the discharge of untreated sewage is prohibited by the Environmental Protection Agency under 40 CFR 140.3, the operator must secure each Type III device in a manner which prevents discharge of sewage. Acceptable methods of securing the device include--

(1) Closing each valve leading to an overboard discharge and removing the handle;

(2) Padlocking each valve leading to an overboard discharge in the closed position; or

(3) Using a non-releasable wire-tie to hold each valve leading to an overboard discharge in the closed position.

[CGH 95-028, 62 FR 51194, Sept. 30, 1997]

Subpart B--Certification Procedures

Sec. 159.11 Purpose.

This subpart prescribes procedures for certification of marine sanitation devices and authorization for labels on certified devices.

Sec. 159.12 Regulations for certification of existing devices.

(a) The purpose of this section is to provide regulations for certification of existing devices until manufacturers can design and manufacture devices that comply with this part and recognized facilities are prepared to perform the testing required by this part.

(b) Any Type III device that was installed on an existing vessel before January 30, 1975, is considered certified.

(c) Any person may apply to the Commandant (G-MSE), U.S. Coast Guard, Washington, D.C. 20593-0001 for certification of a marine sanitation device manufactured before January 30, 1976. The Coast Guard will issue a letter certifying the device if the applicant shows that the device meets Sec. 159.53 by:

(1) Evidence that the device meets State standards at least equal to the standards in Sec. 159.53, or

(2) Test conducted under this part by a recognized laboratory, or

(3) Evidence that the device is substantially equivalent to a device certified under this section, or

(4) A Coast Guard field test if considered necessary by the Coast Guard.

(d) The Coast Guard will maintain and make available a list that identifies each device certified under this section.

(e) Devices certified under this section in compliance with Sec. 159.53 need not meet the other regulations in this part and may not be labeled under Sec. 159.16.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15325, Apr. 12, 1976; CGD 82-063a, 48 FR 4776, Feb. 3, 1983; CGD 88-052, 53 FR 25122, July 1, 1988; CGD 96-026, 61 FR 33668, June 28, 1996]

Sec. 159.12a Certification of certain Type III devices.

(a) The purpose of this section is to provide regulations for certification of certain Type III devices.

(b) Any Type III device is considered certified under this section if:

(1) It is used solely for the storage of sewage and flushwater at ambient air pressure and temperature; and

(2) It is in compliance with Sec. 159.53(c).

(c) Any device certified under this section need not comply with the other regulations in this part except as required in paragraphs (b)(2)and (d) of this section and may not be labeled under Sec. 159.16.

d) Each device certified under this section which is installed aboard an inspected vessel must comply with Sec. 159.97.

[CGD 76-145, 42 FR 11, Jan. 3, 1977]

Sec. 159.14 Application for certification.

(a) Any manufacturer may apply to any recognized facility for certification of a marine sanitation device. The application for

certification must indicate whether the device will be used aboard all vessels or only aboard uninspected vessels and to which standard in Sec. 159.53 the manufacturer requests the device to be tested.

(b) An application may be in any format but must be in writing and must be signed by an authorized representative of the manufacturer and include or be accompanied by:

(1) A complete description of the manufacturer's production quality control and inspection methods, record keeping systems pertaining to the manufacture of marine sanitation devices, and testing procedures;

(2) The design for the device, including drawings, specifications and other information that describes the materials, construction and operation of the device;

(3) The installation, operation, and maintenance instructions for the device; and

(4) The name and address of the applicant and the manufacturing facility.

(c) The manufacturer must furnish the recognized facility one device of each model for which certification is requested and samples of each material from which the device is constructed, that must be tested destructively under Sec. 159.117. The device furnished is for the testing required by this part except that, for devices that are not suited for unit testing, the manufacturer may submit the design so that the recognized facility may determine the components of the device and materials to be submitted for testing and the tests to be performed at a place other than the facility. The Coast Guard must review and accept all such determinations before testing is begun.

(d) At the time of submittal of an application to a recognized facility the manufacturer must notify the Coast Guard of the type and model of the device, the name of the recognized facility to which application is being made, and the name and address of the manufacturer, and submit a signed statement of the times when the manufacturer will permit designated officers and employees of the Coast Guard to have access to the manufacturer's facilities and all records required by this part.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15325, Apr. 12, 1976]

Sec. 159.15 Certification.

(a) The recognized facility must evaluate the information that is submitted by the manufacturer in accordance with Sec. 159.14(b) (1), (2), and (3), evaluate the device for compliance with Secs. 159.53 through 159.95, test the device in accordance with Sec. 159.101 and submit to the Commandant (G-MSE), U.S. Coast Guard, Washington, D.C. 20593-0001 the following:

(1) The information that is required under Sec. 159.14(b);

(2) A report on compliance evaluation;

(3) A description of each test;

(4) Test results; and

(5) A statement, that is signed by the person in charge of testing, that the test results are accurate and complete.

(b) The Coast Guard certifies a test device, on the design of the device, if it determines, after consideration of the information that is required under paragraph (a) of this section, that the device meets the requirements in Subpart C of this part.

(c) The Coast Guard notifies the manufacturer and recognized facility of its determination under paragraph (b) of this section. If the device is certified, the Coast Guard includes a certification number for the device. If certification is denied, the Coast Guard notifies the manufacturer and recognized facility of the requirements of this part that are not met. The manufacturer may appeal a denial to the Commandant (G-MSE), U.S. Coast Guard, Washington, D.C. 20593-0001.

(d) If upon re-examination of the test device, the Coast Guard determines that the device does not in fact comply with the requirements of Subpart C of this part, it may terminate the certification.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976; CGD 82-063a, 48 FR 4776, Feb. 3, 1983; CGD 88-052, 53 FR 25122, July 1, 1988; CGD 96-026, 61 FR 33668, June 28, 1996]

Sec. 159.16 Authorization to label devices.

(a) When a test device is certified under Sec. 159.15(b), the Coast Guard will issue a letter that authorizes the manufacturer to label each device that he manufactures with the manufacturer's certification that the device is in all material respects substantially the same as a test device certified by the U.S. Coast Guard pursuant to section 312 of the Federal Water Pollution Control Act Amendments of 1972.

(b) Certification placed on a device by its manufacturer under this section is the certification required by section 312(h)(4) of the Federal Water Pollution Control Act Amendments of 1972, which makes it unlawful for a vessel that is subject to the standards and regulations promulgated under the Act to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to section 312 of the Act.

(c) Letters of authorization issued under this section are valid for 5 years, unless sooner suspended, withdrawn, or terminated and may be reissued upon written request of the manufacturer to whom the letter was issued.

(d) The Coast Guard, in accordance with the procedure in 46 CFR 2.75, may suspend, withdraw, or terminate any letter of authorization issued under this section if the Coast Guard finds that the manufacturer is engaged in the manufacture of devices labeled under this part that are not in all material respects substantially the same as a test device certified pursuant to this part.

Sec. 159.17 Changes to certified devices.

(a) The manufacturer of a device that is certified under this part shall notify the Commandant (G-MSE), U.S. Coast Guard, Washington, D.C. 20593-0001 in writing of any change in the design of the device.
(b) A manufacturer shall include with a notice under paragraph (a) of this section a description of the change, its advantages, and the recommendation of the recognized facility as to whether the device remains in all material respects substantially the same as the original test device.
(c) After notice under paragraph (a) of this section, the Coast Guard notifies the manufacturer and the recognized facility in writing of any tests that must be made for certification of the device or for any change in the letter of authorization. The manufacturer may appeal this determination to the Commandant (G-MSE), U.S. Coast Guard, Washington, D.C. 20593-0001.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 82-063a, 48 FR 4776, Feb. 3, 1983; CGD 88-052, 53 FR 25122, July 1, 1988; CGD 96-026, 61 FR 33668, June 28, 1996]

Sec. 159.19 Testing equivalency.

(a) If a test required by this part may not be practicable or necessary, a manufacturer may apply to the Commandant (G-MSE), U.S. Coast Guard, Washington, DC 20593-0001 for deletion or approval of an alternative test as equivalent to the test requirements in this part. The application must include the manufacturer's justification for deletion or the alternative test and any alternative test data.
(b) The Coast Guard notifies the manufacturer of its determination under paragraph (a) of this section and that determination is final.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 82-063a, 48 FR 4776, Feb. 3, 1983; CGD 88-052, 53 FR 25122, July 1, 1988; CGD 96-026, 61 FR 33668, June 28, 1996]

Subpart C--Design, Construction, and Testing

Sec. 159.51 Purpose and scope.

(a) This subpart prescribes regulations governing the design and construction of marine sanitation devices.
(b) Unless otherwise authorized by the Coast Guard each device for which certification under this part is requested must meet the requirements of this subpart.

Sec. 159.53 General requirements.

A device must:
(a) Under the test conditions described in Secs. 159.123 and 159.125, produce an effluent having a fecal coliform bacteria count not greater than 1,000 per 100 milliliters and no visible floating solids (Type I),
(b) Under the test conditions described in Secs. 159.126 and 159.126a, produce an effluent having a fecal coliform bacteria count not greater than 200 per 100 milliliters and suspended solids not greater than 150 milligrams per liter (Type II), or
(c) Be designed to prevent the overboard discharge of treated or untreated sewage or any waste derived from sewage (Type III).

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15325, Apr. 12, 1976]

Sec. 159.55 Identification.

(a) Each production device must be legibly marked in accordance with paragraph (b) of this section with the following information:
(1) The name of the manufacturer.
(2) The name and model number of the device.
(3) The month and year of completion of manufacture.
(4) Serial number.
(5) Whether the device is certified for use on an inspected or an uninspected vessel.
(6) Whether the device is Type I, II, or III.

(b) The information required by paragraph (a) of this section must appear on a nameplate attached to the device or in lettering on the device. The nameplate or lettering stamped on the device must be capable of withstanding without loss of legibility the combined effects of normal wear and tear and exposure to water, salt spray, direct sunlight, heat, cold, and any substance listed in Sec. 159.117(b) and (c). The nameplate and lettering must be designed to resist efforts to remove them from the device or efforts to alter the information stamped on the nameplate or the device without leaving some obvious evidence of the attempted removal or alteration.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15325, Apr. 12, 1976]

Sec. 159.57 Installation, operation, and maintenance instructions.

(a) The instructions supplied by the manufacturer must contain directions for each of the following:
(1) Installation of the device in a manner that will permit ready access to all parts of the device requiring routine service and that will provide any flue clearance necessary for fire safety.
(2) Safe operation and servicing of the device so that any discharge meets the applicable requirements of Sec. 159.53.
(3) Cleaning, winter layup, and ash or sludge removal.
(4) Installation of a vent or flue pipe.
(5) The type and quantity of chemicals that are required to operate the device, including instructions on the proper handling, storage and use of these chemicals.
(6) Recommended methods of making required plumbing and electrical connections including fuel connections and supply circuit overcurrent protection.
(b) The instructions supplied by the manufacturer must include the following information:
(1) The name of the manufacturer.
(2) The name and model number of the device.
(3) Whether the device is certified for use on an inspected, or uninspected vessel.
(4) A complete parts list.
(5) A schematic diagram showing the relative location of each part.
(6) A wiring diagram.
(7) A description of the service that may be performed by the user without coming into contact with sewage or chemicals.
(8) Average and peak capacity of the device for the flow rate, volume, or number of persons that the device is capable of serving and the period of time the device is rated to operate at peak capacity.
(9) The power requirements, including voltage and current.
(10) The type and quantity of fuel required.
(11) The duration of the operating cycle for unitized incinerating devices.
(12) The maximum angles of pitch and roll at which the device operates in accordance with the applicable requirements of Sec. 159.53.
(13) Whether the device is designed to operate in salt, fresh, or brackish water.
(14) The maximum hydrostatic pressure at which a pressurized sewage retention tank meets the requirements of Sec. 159.111.
(15) The maximum operating level of liquid retention components.
(16) Whether the device is Type I, II, or III.
(17) A statement as follows:
Note: The EPA standards state that in freshwater lakes, freshwater reservoirs or other freshwater impoundments whose inlets or outlets are such as to prevent the ingress or egress by vessel traffic subject to this regulation, or in rivers not capable of navigation by interstate vessel traffic subject to this regulation, marine sanitation devices certified by the U.S. Coast Guard installed on all vessels shall be designed and operated to prevent the overboard discharge of sewage, treated or untreated, or of any waste derived from sewage. The EPA standards further state that this shall not be construed to prohibit the carriage of Coast Guard-certified flow-through treatment devices which have been secured so as to prevent such discharges. They also state that waters where a Coast Guard-certified marine sanitation device permitting discharge is allowed include coastal waters and estuaries, the Great Lakes and interconnected waterways, freshwater lakes and impoundments accessible through locks, and other flowing waters that are navigable interstate by vessels subject to this regulation (40 CFR 140.3).

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15325, Apr. 12, 1976]

Sec. 159.59 Placard.

Each device must have a placard suitable for posting on which is printed the operating instructions, safety precautions, and warnings pertinent to the device. The size of the letters printed on the placard must be one-eighth of an inch or larger.

Sec. 159.61 Vents.

Vents must be designed and constructed to minimize clogging by either the contents of the tank or climatic conditions such as snow or ice.

Sec. 159.63 Access to parts.

Each part of the device that is required by the manufacturer's instructions to be serviced routinely must be readily accessible in the installed position of the device recommended by the manufacturer.

Sec. 159.65 Chemical level indicator.

The device must be equipped with one of the following:

(a) A means of indicating the amount in the device of any chemical that is necessary for its effective operation.

(b) A means of indicating when chemicals must be added for the proper continued operation of the device.

Sec. 159.67 Electrical component ratings.

Electrical components must have current and voltage ratings equal to or greater than the maximum load they may carry.

Sec. 159.69 Motor ratings.

Motors must be rated to operate at 50 deg.C ambient temperature.

Sec. 159.71 Electrical controls and conductors.

Electrical controls and conductors must be installed in accordance with good marine practice. Wire must be copper and must be stranded. Electrical controls and conductors must be protected from exposure to chemicals and sewage.

Sec. 159.73 Conductors.

Current carrying conductors must be electrically insulated from non-current carrying metal parts.

Sec. 159.75 Overcurrent protection.

Overcurrent protection must be provided within the unit to protect subcomponents of the device if the manufacturer's recommended supply circuit overcurrent protection is not adequate for these subcomponents.

Sec. 159.79 Terminals.

Terminals must be solderless lugs with ring type or captive spade ends, must have provisions for being locked against movement from vibration, and must be marked for identification on the wiring diagram required in Sec. 159.57. Terminal blocks must be nonabsorbent and securely mounted. Terminal blocks must be provided with barrier insulation that prevents contact between adjacent terminals or metal surfaces.

Sec. 159.81 Baffles.

Baffles in sewage retention tanks, if any, must have openings to allow liquid and vapor to flow freely across the top and bottom of the tank.

Sec. 159.83 Level indicator.

Each sewage retention device must have a means of indicating when the device is more than \3/4\ full by volume.

Sec. 159.85 Sewage removal.

The device must be designed for efficient removal of nearly all of the liquid and solids in the sewage retention tank.

Sec. 159.87 Removal fittings.

If sewage removal fittings or adapters are provided with the device, they must be of either 1\1/2\" or 4" nominal pipe size.

Sec. 159.89 Power interruption: Type I and II devices.

A discharge device must be designed so that a momentary loss of power during operation of the device does not allow a discharge that does not meet the requirements in Sec. 159.53.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.93 Independent supporting.

The device must have provisions for supporting that are independent from connecting pipes.

Sec. 159.95 Safety.

(a) Each device must--

(1) Be free of design defects such as rough or sharp edges that may cause bodily injuries or that would allow toxic substances to escape to the interior of the vessel;

(2) Be vented or provided with a means to prevent an explosion or over pressurization as a result of an accumulation of gases; and

(3) Meet all other safety requirements of the regulations applicable to the type of vessel for which it is certified.

(b) A chemical that is specified or provided by the manufacturer for use in the operation of a device and is defined as a hazardous material in 46 CFR Part 146 must be certified by the procedures in 46 CFR Part 147.

(c) Current carrying components must be protected from accidental contact by personnel operating or routinely servicing the device. All current carrying components must as a minimum be of drip-proof construction or be enclosed within a drip-proof compartment.

Sec. 159.97 Safety: inspected vessels.

The Commandant approves the design and construction of devices to be certified for installation and operation on board inspected vessels on the basis of tests and reports of inspection under the applicable marine engineering requirements in Subchapter F of Title 46, Code of Federal Regulations, and under the applicable electrical engineering requirements in Subchapter J of Title 46 Code of Federal Regulations.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.101 Testing: general.

Unless otherwise authorized by the Coast Guard, a recognized facility must perform each test described in Secs. 159.103 through 159.131. The same device must be used for each test and tested in the order in which the tests are described. There must be no cracking, softening, deterioration, displacement, breakage, leakage or damage of components or materials that affects the operation or safety of the device after each test described in Secs. 159.103 through 159.117 and Sec. 159.121, and the device must remain operable after the test described in Sec. 159.119. The device must be set up in a manner simulating installation on a vessel in accordance with the manufacturer's instructions with respect to mounting, water supply, and discharge fittings.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.103 Vibration test.

The device, with liquid retention components, if any, filled with water to one-half of their volume, must be subjected to a sinusoidal vibration for a period of 12 hours, 4 hours in each of the x, y, and z planes, at the resonant frequency of the device (or at 55 cycles per second if there is no resonant frequency between 10 to 60 hertz) and with a peak amplitude of 0.019 to 0.021 inches.

Sec. 159.105 Shock test.

The device, with liquid retention components, if any, filled with water to half of their volume, must be subjected to 1,000 vertical shocks that are ten times the force of gravity (10g) and have a duration of 20-25 milliseconds measured at the base of the half-sine shock envelope.

Sec. 159.107 Rolling test.

(a) The device, with liquid retention components, if any, filled with water to half of their volume, must be subjected to 100 cycles with the axis of rotation 4 feet from the centerline of the device, no more than 6 inches below the plane of the bottom of the

device, and parallel to any tank baffles. The device must then be rotated 90 degrees on its vertical axis and subjected to another 100 cycles. This testing must be repeated with the liquid retention components filled to the maximum operating level as specified by the manufacturer in Sec. 159.57.

(b) Eighty percent of the rolling action must be approximately 15 degrees on either side of the vertical and at a cyclic rate of 3 to 4 seconds. Twenty percent motions must be approximately 30 degrees, or the maximum angle specified by the manufacturer under Sec. 159.57, whichever is greater, on either side of the vertical at a cyclic rate of 6 to 8 seconds.

Sec. 159.109 Pressure test.

Any sewage retention tank that is designed to operate under pressure must be pressurized hydrostatically at a pressure head of 7 feet or to 150 percent of the maximum pressure specified by the manufacturer for operation of the tank, whichever is greater. The tank must hold the water at this pressure for 1 hour with no evidence of leaking.

Sec. 159.111 Pressure and vacuum pulse test.

Liquid retention components of the device with manufacturer specified venting installed must be subjected to 50 fillings of water at a pressure head of 7 feet or the maximum pressure specified by the manufacturer for operation of the device, whichever is greater, and then emptied with a 45 gallon per minute or larger positive displacement pump that remains in operation 30 seconds after emptying the tank at the end of each cycle.

Sec. 159.115 Temperature range test.

(a) The device must be held at a temperature of 60 deg.C or higher for a period of 16 hours.

(b) The device must be held at a temperature of -40 deg.C or less for a period of 16 hours following winterization in accordance with manufacturers' instructions.

Sec. 159.117 Chemical resistance test.

(a) In each case where the recognized facility doubts the ability of a material to withstand exposure to the substances listed in paragraphs (b) and (c) of this section a sample of the material must be tested.

(b) A sample referred to in paragraph (a) of this section must be partially submerged in each of the following substances for 100 hours at an ambient temperature of 22 deg.C.

(1) Sewage.

(2) Any disinfectant that is required in the operation of the device.

(3) Any chemical compound in solid, liquid or gaseous form, used, emitted or produced in the operation of the device.

(4) Fresh or salt (3.5 percent Sodium Chloride) flush water.

(5) Toilet bowl cleaners.

(6) Engine Oil (SAE/30).

(7) Ethylene Glycol.

(8) Detergents (household and bilge cleaning type).

(c) A sample of the material must be doused 20 times, with a 1 hour drying period between dousings, in each of the following substances:

(1) Gasoline.

(2) Diesel fuel.

(3) Mineral spirits.

(4) Turpentine.

(5) Methyl alcohol.

Sec. 159.119 Operability test; temperature range.

The device must operate in an ambient temperature of 5 deg.C with inlet operating fluid temperature varying from 2 deg.C to 32 deg.C and in an ambient temperature of 50 deg.C with inlet operating fluid temperature varying from 2 deg.C to 32 deg.C.

Sec. 159.121 Sewage processing test.

(a) The device must process human sewage in the manner for which it is designed when tested in accordance with this section. There must be no sewage or sewage-treating chemicals remaining on surfaces or in crevices that could come in contact with a person using the device or servicing the device in accordance with the instructions supplied under Sec. 159.57(b)(7).

(b) During the test the device must be operated and maintained in accordance with the manufacturer's instructions. Any initial start-up time specified by the manufacturer must be allowed before test periods begin. For 1 hour of each 8-hour test period, the device must be tilted to the maximum angles specified by the manufacturer under Secs. 159.55 and 159.57.

(c) Except for devices described in paragraph (d) of this section, the devices must process and discharge or store human sewage over at least an 8-consecutive hour period on at least 10 days within a 20-day period. The device must receive human sewage consisting of fecal matter, urine, and toilet paper in a ratio of four urinations to one defecation with at least one defecation per person per day. Devices must be tested at their average rate of capacity as specified in Sec. 159.57. In addition, during three periods of each day the system must process sewage at the peak capacity for the period of time it is rated at peak capacity.

(d) A device that processes and discharges continuously between individual use periods or a large device, as determined by the Coast Guard, must process and discharge sewage over at least 10-consecutive days at the average daily capacity specified by the manufacturer. During three periods of each day the system must process sewage at the peak capacity for the period of time it is rated at peak capacity. The sewage for this test must be fresh, domestic sewage to which primary sludge has been added, as necessary, to create a test sewage with a minimum of 500 milligrams of suspended solids per liter.

Sec. 159.123 Coliform test: Type I devices.

(a) The arithmetic mean of the fecal coliform bacteria in 38 of 40 samples of effluent discharged from a Type I device during the test described in Sec. 159.121 must be less than 1000 per 100 milliliters when tested in accordance with 40 CFR Part 136.

(b) The 40 samples must be taken from the device as follows: During each of the 10-test days, one sample must be taken at the beginning, middle, and end of an 8-consecutive hour period with one additional sample taken immediately following the peak capacity processing period.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.125 Visible floating solids: Type I devices.

During the sewage processing test (Sec. 159.121) 40 effluent samples of approximately 1 liter each shall be taken from a Type I device at the same time as samples taken in Sec. 159.123 and passed expeditiously through a U.S. Sieve No. 12 as specified in ASTM E 11 (incorporated by reference, see Sec. 159.4). The weight of the material retained on the screen after it has been dried to a constant weight in an oven at 103 deg.C. must be divided by the volume of the sample and expressed as milligrams per liter. This value must be 10 percent or less of the total suspended solids as determined in accordance with 40 CFR Part 136 or at least 38 of the 40 samples.

Note: 33 U.S.C. 1321(b)(3) prohibits discharge of harmful quantities of oil into or upon the navigable waters of the United States or adjoining shorelines or into or upon the waters of the contiguous zone. Under 40 CFR 110.3 and 110.4 such discharges of oil include discharges which:

(a) Violate applicable water quality standards, or

(b) Cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines. If a sample contains a quantity of oil determined to be harmful, the Coast Guard will not certify the device.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976; USCG-1999-5151, 64 FR 67176, Dec. 1, 1999]

Sec. 159.126 Coliform test: Type II devices.

(a) The arithmetic mean of the fecal coliform bacteria in 38 of 40 samples of effluent from a Type II device during the test described in Sec. 159.121 must be 200 per 100 milliliters or less when tested in accordance with 40 CFR Part 136.

(b) The 40 samples must be taken from the device as follows: During each of the 10 test days, one sample must be taken at the beginning, middle and end of an 8-consecutive hour period with one additional sample taken immediately following the peak capacity processing period.

[CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.126a Suspended solids test: Type II devices.

During the sewage processing test (Sec. 159.121) 40 effluent samples must be taken at the same time as samples are taken for Sec. 159.126 and they must be analyzed for total suspended solids in accordance with 40 CFR Part 136. The arithmetic mean of the total suspended solids in 38 of 40 of these samples must be less than or equal to 150 milligrams per liter.

[CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.127 Safety coliform count: Recirculating devices.

Thirty-eight of forty samples of flush fluid from a re-circulating device must have less than 240 fecal coliform bacteria per 100 milliliters. These samples must be collected in accordance with Sec. 159.123(b) and tested in accordance with 40 CFR Part 136.

[CGD 73-83, 40 FR 4624, Jan. 30, 1975, as amended by CGD 75-213, 41 FR 15326, Apr. 12, 1976]

Sec. 159.129 Safety: Ignition prevention test.

(a) Components of a device that are a potential ignition source in an explosive atmosphere must pass the test in paragraph (b) or (c) of this section or meet the requirements of paragraph (d) or have a specific warning in the instruction manual required by Sec. 159.57 that the device should not be installed in an explosive atmosphere.

(b) Components protected by vapor exclusion must be placed in a chamber filled with a rich mixture of gasoline or propane in air with the pressure being varied from 0 to 2 psig once an hour for 8 hours. Vapor readings must be taken in the void being protected and must indicate a leakage less than 20 percent of the lower explosive limit of the mixture in the chamber.

(c) Components providing ignition protection by means other than vapor exclusion must be fitted with an ignition source, such as a spark plug, and a means of injecting an explosive mixture of gasoline or propane and air into the void that protects the component. Connections must be made so as to minimize any additional volume added to the protected void by the apparatus delivering the explosive mixture. The component must be placed in a chamber filled with an explosive mixture and there must be no ignition of the explosive mixture surrounding the component when the following tests are conducted:

(1) Using any overload protection that is part of the device, the potential ignition source must be operated for one half hour at 110 percent of its rated voltage, one half hour at 50 percent of its rated voltage and one half hour at 100 percent of its rated voltage with the motor or armature locked, if the potential ignition source is a motor or part of a motor's electrical circuit.

(2) With the explosive mixture in the protected void, the test installed ignition source must be activated 50 times.

(3) The tests paragraphs (c) (1) and (2) of this section must be repeated with any plugs removed.

(d) Components that are certified as being intrinsically safe in accordance with the Instrument Society of America (RP 12.2) or explosion proof in accordance with the Underwriters Laboratories STD 698 in Class I, Group D hazardous locations (46 CFR 111.80-5(a)) need not be subjected to this testing.

Sec. 159.131 Safety: Incinerating device.

An incinerating device must not incinerate unless the combustion chamber is closed, must purge the combustion chamber of combustible fuel vapors before and after incineration must secure automatically if the burner does not ignite, must not allow an accumulation of fuel, and must neither produce a temperature on surfaces adjacent to the incineration chamber higher than 67 deg.C nor produce a temperature on surfaces in normal body contact higher than 41 deg.C when operating in an ambient temperature of 25 deg.C. Unitized incineration devices must completely burn to a dry, inert ash, a simultaneous defecation and urination and must not discharge fly ash, malodors, or toxic substances.

Subpart D--Recognition of Facilities

Sec. 159.201 Recognition of facilities.

A recognized facility is an independent laboratory accepted by the Coast Guard under 46 CFR 159.010 to perform the tests and inspections required under this part. A list of accepted laboratories is available from the Commandant (G-MSE-3).

[CGD 95-028, 62 FR 51194, Sept. 30, 1997, as amended by USCG-1999-5832, 64 FR 34715, June 29, 1999]

Appendix E: Public Comments