

Virginia's Dillon Rule & Local Government Authority

To Notify Citizens of Environmental Disasters

The Bottom Line

No — the Dillon Rule does not prevent Chesterfield County from notifying citizens of an environmental disaster. In fact, the stronger argument is that local government has both the **authority and the duty** to do so.

What the Dillon Rule Actually Restricts

Virginia's Dillon Rule provides that local governing bodies have only those powers that are expressly granted, those necessarily or fairly implied from expressly granted powers, and those that are essential and indispensable to the existence of government. If there is any reasonable doubt as to whether authority has been granted, the question will likely be construed against the county.

Critically, the Dillon Rule restricts *legislative action* — passing ordinances, imposing taxes, creating new regulations. Notifying citizens of a public health threat is not a new regulatory power. It is a core executive and administrative function squarely within the county's health and safety obligations.

Three Independent Bases for Notification Authority

1. Express Grant — Emergency Services

Virginia Code § 44-146 et seq. grants local governments broad emergency management authority, including public communication during emergencies. Contamination of a drinking water supply is a textbook emergency under this framework.

2. Implied Power — Protection of Public Health

Virginia courts have concluded that local governments hold those powers necessarily or fairly implied from a specific grant of authority, and those essential to the purposes of government — not simply convenient but indispensable. Protecting public health is among the most indispensable functions of local government. Silence in the face of a known hazard would be harder to legally defend than disclosure.

3. State Law Already Requires Notification

Under the State Water Control Law, Virginia Code § 62.1-44.5, any person who discharges or causes a discharge of a noxious or deleterious substance into state waters must promptly notify — within 24 hours — the DEQ Director or the coordinator of emergency services for the political subdivision reasonably expected to be affected.

The county is the designated *recipient* of that required notification. There is no legal basis to argue the county must receive the warning but is barred from passing it to residents.

The Real Issue — and the Sharper Argument

The Dillon Rule defense would be legally absurd in this context. The more important points are:

- A local government that knows of a contamination threat to the public water supply and stays silent faces significant **civil and political liability exposure**. The county's own attorneys should be telling them this.
- The stronger CCRG pressure point is not whether the Board of Supervisors *can* notify citizens — it's why they haven't, and what they are concealing by staying silent.
- Federal law (CERCLA, Clean Water Act) and state law create independent notification obligations that supersede any Dillon Rule limitation a local government might attempt to invoke as a shield.