

**Virginia Soil and Water Conservation Board  
Virginia Stormwater Management Program Regulator Advisory Panel  
January 21, 2011  
Richmond, Virginia**

**Regulatory Advisory Panel Members Present**

David A. Johnson, DCR, Chair  
Steve Herzog, Hanover County  
Asaad Ayoubi, Fairfax County  
Jeff Perry, Henrico County  
Jenny Johnson, Joyce Engineering  
Cabell Vest, Aqualaw  
Roy Mills, VDOT  
Doug Beisch, Williamsburg Environmental Group  
Michael Rolband, Wetland Solutions  
Joe Wilder, Frederick County  
Normand Goulet, Northern Virginia Regional Commission  
Mike Toalson, Virginia Association of Home Builders  
Shannon Varner, Troutman Sanders  
Philip Abraham, The Vectre Corporation  
Mike Gerel, Chesapeake Bay Foundation  
Mike Bumbaco, City of Virginia Beach  
Bob Kerr, Kerr Environmental Services Corporation  
Barbara Brumbaugh, City of Chesapeake  
Ingrid Stenbjorn, Town of Ashland  
Allison Sappington, Thomas Jefferson Soil and Water Conservation District  
Jenny Tribo, Hampton Roads Planning District Commission  
Kurt Stephenson, Virginia Tech  
Larry Land, Virginia Association of Counties  
Katie Frazier, Virginia Agribusiness  
Todd Chalmers, Balzer and Associates

**DCR Staff Present**

Jack Frye  
Lee Hill  
Doug Fritz  
David Dowling  
Christine Watlington  
Michael Fletcher

**Others Present**

Bethany Bezak, Wetland Studies and Solutions, Inc.

Jennifer Brophy-Price, Wetland Studies and Solutions, Inc.  
Daniel Proctor, Williamsburg Environmental Group  
Adrienne Kotula, James River Association  
Judy Cronauer, Fairfax County

David Johnson called the meeting to order. He gave a review of the process. He said that the goal is to have the process completed by the first of October.

Mr. Fritz said that there were four handouts for the meeting's discussion. The four documents were:

- Draft Regulatory Language
- Presentation on Water Quality
- Presentation on Water Quantity
- Reference Presentation on Water Quantity by Jeff Cowan

Copies of those handouts are available at this link:

<http://www.dcr.virginia.gov/lr2d.shtml>

Mr. Rolband asked if it would be possible to set up the dates for the future meetings.

Mr. Johnson said that the RAP could discuss calendar issues at the end of the meeting.

Mr. Johnson said that he would ask each of the subcommittee chairs to report on the discussions and recommendations of their committee.

### Grandfathering

Mr. Toalson gave the report from the Subcommittee on Grandfathering.

Mr. Toalson noted that on line 870, Ms. Sanner from the Chesapeake Bay Foundation would have preferred the date to be 2014. However the committee as a whole agreed to list the date as June 30, 2019, the expiration date of the next general permit.

Mr. Toalson said that the language requires that the plan must include the layout of the property. Layout is defined in the draft regulations on page 231.

Mr. Toalson noted that Section C on line 890 was designed for local construction projects where there is a commitment of funding. He noted that, for example, VDOT generally has a six-year plan. If the project is funded it can continue under the current regulations.

Mr. Toalson said that the current grandfathering clause is scheduled to be implemented with the effective date of the regulations. He suggested delaying the grandfathering date to avoid creating an environment where there is a rush to the courthouse for projects that may be in various stages of development. He said changing the date could allow for a more orderly effective date.

Mr. Kerr said that between the adoption of the regulations and the adoption of the new ordinances between October 2011 and July 2014 there were no other ordinances on the books.

Mr. Johnson said that staff will be clear and that the distinction between the effective date and the implementation date will be communicated to the localities.

#### Water Quality

Mr. Goulet gave the report of the Water Quality Subcommittee.

Mr. Goulet said that the original recommendation was to recommend a number of .32 based on the runoff methodology. He noted that the number currently in the regulations was .36.

Mr. Goulet called on Mr. Rolband to give a presentation. A copy of Mr. Rolband's presentation is included in the documents as noted above.

Mr. Goulet said that the committee was comfortable with the .41 number with the caveat that it would be reevaluated at the midpoint.

Mr. Rolband explained that the difference between the .41 number and .45 was that the simple method only accounts for pollution from impervious surfaces. He said that it would be modified to include forest lands.

#### Water Quantity

Mr. Rolband gave another presentation. The full presentation is available at the link above.

Mr. Rolband said that the sub committee reached consensus on the language revision for the water quantity section.

Mr. Rolband that the committee recommended that the full revised regulations should be tested on actual development sites for both water quality and water quantity.

Mr. Rolband said that there was also a concern on the redevelopment of previously developed sites. If a site is redeveloped to a 20% reduction and then is later redeveloped again, there was concern that it was unfair to require another 20% reduction.

Mr. Johnson said that additional land disturbance should require additional reduction.

### Offsets

Mr. Beisch gave the report from the Offsets subcommittee. He said that the subcommittee looked at specific issues at the request of RAP members.

Mr. Beisch said that the subcommittee looked at the buy down language and what that meant in relation to the permit and disturbance data. He said that DCR provided the data for the analysis.

Mr. Beisch said that the data shows that the vast majority of disturbances and the proportion of the load are occurring in land disturbance activities that are five acres and greater. He said that language to reflect that had been incorporated into the offset language.

Mr. Beisch said that the subcommittee also looked at the current statute relating to the use of nonpoint nutrient offsets. He said that as written there was a cumbersome procedural burden for the use of offsets. He said that language had been submitted that would ensure that the procedures were not too costly to do the evaluation.

### Local Programs

Mr. Herzog gave the report from the Local Programs subcommittee.

Mr. Herzog said that one of the goals of the local programs subcommittee was to remove the technical requirements from Part III and put them in Part II.

Mr. Herzog said that the subcommittee discussed enforcement at the local level. He said that consensus was that it would be easier if localities were able to do enforcement based on their local ordinances.

Mr. Hill said that DCR would retain oversight of any permit issued in the VSMP program, just as EPA has oversight of DCR.

Mr. Herzog said that there needed to be addition discussion regarding the mechanics of interaction between DCR and the localities.

Mr. Johnson thanked members for their participation and noted that he had to leave due to another commitment. He asked Ms. Watlington to discuss follow up.

Ms. Watlington asked that comments be submitted to her attention within the next 2-3 weeks. She said that the next meeting would be scheduled in February and that she would poll members for a consensus regarding the date.

Mr. Fritz asked that comments be as specific as possible, and that line numbers should be noted.

The meeting was adjourned.