

**Non-Point Nutrient Credit Certification
Regulatory Advisory Panel (RAP) Meeting**
April 18, 2016
Draft Meeting Minutes

Location: Virginia Department of Environmental Quality (DEQ)
Piedmont Regional Office
4040 Cox Road
Glen Allen, VA

Start: 9:38 am **End:** 4:03 pm

Meeting Attendees:

| <i>RAP MEMBERS*</i> | <i>INTERESTED PARTIES</i> | <i>RAP TECHNICAL SUPPORT</i> |
|--|--|------------------------------|
| Phil Abraham - Virginia Association of Commercial Real Estate | Casey Jansen - CBNLT | Melanie Davenport - DEQ |
| Brent Fults - Chesapeake Bay Nutrient Land Trust, LLC | Joe Wood - CBF | Fred Cunningham - DEQ |
| S. Taylor Goodman - Balzer and Associates, Inc. | Lisa Turner - CBF | Allan Brockenbrough - DEQ |
| Normand Goulet - Northern Virginia Regional Commission | Doug Frazer - EEE Consulting | Sarah Woodford - DEQ |
| Steven Herzog - Hanover County | Adrienne Kotula - James River Association | Derick Winn - DEQ |
| Ann Jennings - Chesapeake Bay Commission | Trieste Lockwood - VCN | Matt Richardson - DEQ |
| Whitney Katchmark - Hampton Roads Planning District Commission | Jacob Dorman - Contech ES | Debra Harris - DEQ |
| Joseph Maroon - VEE | Pat Gleason - EPA R3 | Lee Crowell - DEQ |
| Adam Meurer - ECS Mid-Atlantic | Richard Street - VAEPO | |
| Justin Curtis (alt.) - Aqualaw/Virginia Association of Municipal Wastewater Agencies | Annemarie Abbondanzo - Ecosystems Services | |
| Nikki Rovner - The Nature Conservancy | Jennifer Van Houten - WSSI | |
| Peggy Sanner - Chesapeake Bay Foundation (CBF) | Kristin Davis - SELC | |
| Tom Simpson - Aqua Terra Science | Houbou Li - DEQ | |
| Wilmer Stoneman - Virginia Farm Bureau Federation | | |
| Mike Toalson - Home Builders Association of Virginia | | |
| Shannon Varner - Troutman Sanders LLP | | |
| Brian Wagner - VA Soil and Water Conservation Districts | | |

*RAP Members not in attendance: Doug Beisch, Jr. - Wegnet; Joe Lerch - Virginia Municipal League; Timothy Mitchell - City of Lynchburg; Kevin Seaford - Virginia Association of Professional Soil Scientists; Jack Storton - Virginia Manufacturers Association;; Larry Land - Virginia Association of Counties; Sara Walker - World Resources Institute

Agenda Item: Welcome & Past Meeting Minutes

Discussion Leader: Melanie Davenport, DEQ

Discussion: Melanie Davenport welcomed all of participants to the meeting of the reconvened Nutrient Trading Credit Certification Regulatory Advisory Panel. Ms. Davenport asked each attendee to provide a short introduction. After the introductions, a brief overview of the day's agenda was provided (Attachment A – Agenda). Everyone was reminded to sign the sign-in sheet in order to provide a record of who was in attendance. Ms. Davenport then asked if there were any comments on the draft minutes that were sent to the RAP members. Ann Jennings requested that the comments regarding agricultural best management practices (BMPs), the impact of certifying various small BMPs on workload and baseline calculations issues considering additionality be added to the minutes. Based on these comments, the minutes will be revised and sent to the RAP for further review.

Agenda Item: Innovative Practices

Discussion Leader: Allan Brockenbrough, DEQ

Discussion: Allan Brockenbrough reviewed the proposed revisions for processing applications that use innovative practices to reduce nutrients in order to generate credits. The RAP discussed the concept of innovative practices and how to process applications including innovative practices. Based on these discussions, the RAP agreed to: (i) allow flexibility for the DEQ to decide when it needs to convene an certification advisory committee for innovative practices; (ii) provide for a second public notification prior to certification of nutrient credits that are generated by an innovative practice; (iii) revise the regulation under Subsection D so that a notification is sent to the applicant within 120 days and the notification would provide a projected timeline for processing of the application; and (iv), for the credit registry, those nutrient credits generated by innovative practices will be tagged or footnoted. Later in the meeting, the RAP also recommended that innovative practices would be limited to generating term credits not perpetual credits.

Agenda Item: Perpetual Nutrient Credits & Permanence

Discussion Leader: Allan Brockenbrough, DEQ

Discussion: Allan Brockenbrough provided an overview of the revisions made for perpetual credits. The RAP continued its discussion of structural BMPs generating perpetual credits and what types of structural BMPs would generate perpetual credits (i.e., how to deal with small urban BMPs or agricultural structural practices). Some note that no structure is permanent and, therefore, should not be allowed to generate perpetual credits. It was also noted that the purpose of financial assurance was to guarantee the permanence and that structural BMPs are permanent under the stormwater management program. The RAP will continue to consider this issue.

The RAP broke for lunch from 12:00 p.m. until 1:03 p.m.

Agenda Item: Stream/Wetlands Restoration

Discussion Leader: Sarah Woodford, DEQ

Discussion: Sarah Woodford summarized the on-going work regarding the development of provisions for the use of wetland or stream restoration practices to generate credits. The RAP discussed the revisions and some asked why stream restoration practices would be allowed to generate perpetual credits. Based on the issues raised, it was decided to convene a subgroup of RAP members to discuss the implementation provisions necessary to assure restoration practices used to generate perpetual credits. A separate meeting of the subgroup will be held and the subgroup's recommendations/discussions will be brought to the RAP for further consideration.

The RAP took a break from 3:00 p.m. until 3:16 p.m.

Agenda Item: Overview MS4 Changes & Other Revisions

Discussion Leader: Allan Brockenbrough, DEQ

Discussion: Allan Brockenbrough provided a brief overview of the proposed revisions regarding MS4 issues noted by EPA. The revisions for MS4s are still being considered by DEQ at this time.

Agenda Item: RAP General Comments

Discussion Leader: Debra Harris, DEQ

Discussion: Debra Harris explained to the RAP that many RAP members had asked for time to discuss other non-consensus items. To accommodate that request, this topic was added to the agenda and was being allotted to hear the RAP members concerns. The issues discussed were public comment in lieu of public notice, changing to "shall" for site visits, financial assurance mechanisms and the need for flexibility, land conversion and a proposal for early release of credits if financial assurance is posted, the definition of management area, and local water quality.

Agenda Item: Public Comment & Next Steps

Discussion Leader: Debra Harris, DEQ

Discussion: Debra Harris asked for any additional public comment. It was noted that the next step would be to have the subgroup meeting. No future meetings of the full RAP were set at this time.

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Regulatory Advisory Panel (RAP)**

DEQ Piedmont Regional Office
Training Room
4040A Cox Road
Glen Allen, VA

April 18, 2016
9:30 a.m. to 4:00 p.m.

Agenda

| Time | Topic | Lead | Preparation/Goal |
|-------------|---|--|--|
| 9:30 a.m. | Welcome/Logistics* Introductions Agenda 2/26 Meeting Minutes | <i>Melanie Davenport & Deb Harris</i> | Please review draft meeting minutes/approval to finalize. |
| 9:45 a.m. | Innovative Practices | <i>Allan Brockenbrough</i> | Please review language clarifying the process for applications using innovative practices (Green Font) |
| 10:45 a.m. | Perpetual Credits | <i>Allan Brockenbrough & Fred Cunningham</i> | Please review revised language clarifying the perpetual credits (Purple Font). |
| 11:45 a.m. | <i>LUNCH ON YOUR OWN</i> | | |
| 12:45 p.m. | Wetland/Stream Restoration | <i>Allan Brockenbrough & Sarah Woodford</i> | Please review revised language clarifying the restoration provisions (Blue Font). |
| 1:45 p.m. | Overview MS4 Changes (EPA) & Other Revisions post 2/26. | <i>Allan Brockenbrough & Deb Harris</i> | |
| 2:15 p.m. | <i>AFTERNOON BREAK</i> | | |
| 2:30 p.m. | RAP General Comments** | <i>Deb Harris</i> | |
| 3:15 p.m. | Public Comment | <i>Deb Harris</i> | |
| 3:30 p.m. | Next Steps Discussion Consensus Checks | <i>Deb Harris</i> | |
| 4:00 p.m. | <i>ADJOURN</i> | <i>Melanie Davenport</i> | |

*Please remember to sign-in for the meeting (sign-in sheet will be out by 9:15 a.m.)

**RAP members may bring up non-agenda issues for brief discussion by the RAP.

Attachment B
Handouts



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