

**General Virginia Stormwater Management Program (VSMP) Permit for Discharges
of Stormwater from Construction Activities (4 VAC 50-60-100 et seq.) [Part XIV]
Regulatory Advisory Panel (RAP)**

Main Street Center, 600 E. Main Street, 12th Floor South Conference Room, Richmond
Wednesday, August 29, 2012; Meeting #1
10 a.m. to 3 p.m.

Regulatory Advisory Panel Members Present

Philip Abraham, Virginia Association of Commercial Real Estate
Doug Beisch, Williamsburg Environmental Group
Kristen Bass (for William Bullard), Department of Defense/U.S. Navy
Barbara Brumbaugh, City of Chesapeake
Corwin Chamberlain, Dominion Power
Ann-Neil Cosby, Sands Anderson
Jenny Johnson, Joyce Engineering
Jeff Kelble, Shenandoah Riverkeeper
Chris Lannin, American Infrastructure
Roy Mills, VDOT
David Nichols, Town of Bridgewater
David Nunley, Caroline County
John Paine, Hampton Roads Planning District Commission
Jonét Prévost-White, City of Richmond
Peggy Sanner, Chesapeake Bay Foundation
William Street, James River Association
Mike Toalson, Home Builders Association of Virginia
Steve Vermillion, Association of General Contractors of Virginia, Inc.
Cabell Vest, AquaLaw, PLC

Regulatory Advisory Panel Members Not Present

Normand Goulet, Northern Virginia Regional Commission
Adrienne Kotula, James River Association
Michael Rolband, Wetland Studies and Solutions, Inc.
Craig Whittaker, Giles County

Facilitator

Tanya Denckla Cobb, Institute for Environmental Negotiations

Agency Staff Present

Marian Carroll, DCR (Warrenton)
Doug Fritz, DCR
Matthew Gooch, Office of the Attorney General

Drew Hammond, DEQ
Mike Lee, DCR (Tappahanock)
John McCutcheon, DCR
John Olenik, VDOT
Ginny Snead, DCR
Michelle Vucci, DCR
Christine Watlington, VDOT

Others Present

Pat Calvert, James River Association
Glenn Custis, Draper Aden Association
Chip England, Hanover County
Todd Flippen, Augusta County
Brent Fults, CBHLT
Lee Hill, Joyce Engineering
John Newton, Henrico County
David E. Nichols, Town of Bridgewater
Rick Parrish, SELC
Jeff Perry, Henrico County
Joe Tannery, Dominion Power
Chris Swanson, EEE
Keith White, Henrico County

Welcome and Introductions

Ms. Snead welcomed attendees and reviewed the charge to the RAP. She explained how the structure of the RAP would work and explained the advisory role of the state agency personnel present.

Ms. Denckla Cobb went over the proposed guidelines and e-tiquette (electronic) rules for ensuring a productive meeting. She asked for additional suggestions, and went over the agenda. Ms. Denckla Cobb also discussed how the presentation of key issues would guide future meetings. She asked everyone in the room to introduce themselves.

Regulatory Action Overview, Committee Charge, and Regulatory Timeline

Ms. Snead explained the regulatory action under consideration, the charge of the panel, and the timeline for regulatory action. Ms. Snead also explained that the construction general permit must be revised because of legislation passed by the 2012 General Assembly (House Bill 1065 and Senate Bill 407) that allows for Virginia's Stormwater Management Program services to be delivered at the local level. DCR is working with localities toward a July 1, 2014 implementation date for this transition.

- The purpose of the regulatory action is to consider amendments to the applicable portions of Virginia Soil and Water Conservation Board's *Virginia Stormwater*

Management Program (VSMP) Permit Regulations in order to reauthorize and amend the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Construction Activities, which is part XIV of the Board regulations.

- Regulations developed under the federal Clean Water Act (33 USC §1251 et seq.) and §10.1-603.1 et seq. of the *Code of Virginia* require that VSMP permits be effective for a fixed term not to exceed five years.
- The existing five-year General Permit became effective on July 1, 2009; thus necessitating the regulatory promulgation of a new General Permit before the June 30, 2014 expiration date.
- On September 8, 2011, in accordance with these state authorities and under the auspices of federal designated authorities to the state, the Soil and Water Conservation Board authorized the Department of Conservation and Recreation (DCR) to prepare and submit a notice of intended regulatory action (NOIRA) to consider changes and solicit recommendations; in accordance with the Administrative Process Act exemption requirements specified in §2.2-4006 A8, the Virginia Register Act, and other applicable technical rule making protocols.

Regulatory Amendment Process

- Regulatory actions are typically comprised of three primary steps: the NOIRA, the Proposed Regulations, and the Final Regulations. Routinely under the Administrative Process Act (APA), this takes about two years.
- However, amendments to this General Permit are exempt from the full APA (§2.2-4006 subsection A8 of the Code of Virginia) process. As such, a slightly abbreviated APA process is required. There is still a NOIRA, Proposed, and Final regulatory steps, and public input processes remain. However, the administrative review process time is reduced.
- The General Permit shall be exempt from portions of the APA if the Soil and Water Conservation Board:
 - Provides a NOIRA.
 - Forms a regulatory advisory panel (RAP) composed of relevant stakeholders to assist in the development of the General Permit (following the passage of 30-days from the publication of the NOIRA.)
 - Provides notice in the Virginia Register of Regulations and receives oral and written comment.
 - Conducts at least one public hearing on the proposed General Permit.
 - Publishes in the Register both the proposed and final regulations.
 - At least two days in advance of the Soil and Water Conservation Board meeting where the regulation will be considered, a copy of the regulation shall be provided to members of the public that request a copy.

A copy of that regulation shall be made available to the public attending the Board meeting.

- The permits are also subject to additional federal National Pollutant Discharge Elimination System (NPDES) requirements relevant to the promulgation of general permits. These include:
 - Development of a fact sheet.
 - EPA formal 90-day review of the proposed General Permit regulation and fact sheet.
 - Mailing of the draft permit, public notice document describing commenting procedures and hearings, and fact sheet to:
 1. Members of the RAP
 2. All current general permit coverage holders
 3. Neighboring states
 4. State and federal agencies. (This includes the Virginia Department of Environment Quality, the Virginia Department of Health, the Virginia Department of Historic Resources, the Virginia Institute of Marine Science, the Virginia Department of Game and Inland Fisheries, the U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service.)
 5. All individuals and entities requesting to be placed on a list to be notified
 6. All localities that contain an MS4
 - Publishing a public notice twice in newspapers with statewide coverage more than 30-days in advance of the close of the public comment period
 - U.S. Environmental Protection Agency (EPA) concurrence with the final General Permit regulation.

Regulatory Timeline (Tentative - Subject to Change)

- **September 8, 2011** - The Soil and Water Conservation Board authorized and directed the filing of a NOIRA related to the Part XIV of the Board's Virginia Stormwater Management Program (VSMP) Permit Regulations and other related sections.
- **May 1, 2012** - NOIRA filed with the Registrar of Regulations (exempt from Administrative Review).
- **May 21, 2012** – Action published in Volume 28: Issue 19.
- **May 21, 2012 – June 20, 2012** – Thirty-day public comment period.
- **July 20, 2012** – E-mail sent making RAP appointments.
- **August 8, 2012** – Agenda and other materials for August 29 meeting distributed.
- Next steps (target dates):
 - August 29, 2012; September 19, 2012, and October 4, 2012, October 17, 2012, November 1, 2012** - RAP meetings.
 - November 27, 2012** - Complete proposed regulation and discussion package and mail to Soil and Water Conservation Board.
 - Develop Federal Fact Sheet, public hearing remarks, public notice.
 - December 11, 2012** - Proposed regulations are reviewed by the Soil and Water Conservation Board.
 - January 9, 2013** – Filing with the Registrar's Office (by noon).

January 28, 2013 – Regulatory action published in the Virginia Register of Regulations.

January 28, 2013 to March 29, 2013 – Sixty-day public comment period. (EPA official review during this time period)

Publish a notice twice in 10 newspapers (federal requirement) 30 days in advance of the close of the public comment period.

March 5, 2013 and March 7, 2013 (target dates only) - Hold at least two public hearings.

Review Comments and Coordinate general permit approval with EPA.

May 1, 2013 - Send draft final regulation to EPA for unofficial review and comment.

June 1, 2013 - Target date for EPA to respond to DCR with its unofficial comments on the final regulations.

June 11, 2013 - Send final regulation to EPA for official review and concurrence.

June 12, 2013 - Letter to be issued by Counsel in the Attorney General's Office.

June 13, 2013 - Mail regulatory package to the Soil and Water Conservation Board and prepare Town Hall filing discussion forms and regulation in RIS.

June 20, 2013 - Target date for EPA to provide verbal concurrence with the final regulations.

- **June 27, 2013 (target date)** - Take final regulation to the Soil and Water Conservation Board.
 1. **July 10, 2013** - File on the Town Hall and with Registrar.
 2. **July 29, 2013** – Publish regulatory action in the Virginia Register of Regulations.
 3. **August 28, 2013** - Public comment period ends and regulations are final.
 4. **July 1, 2014** - Effective date of amended regulations.

Mr. Toalson commented that the regulatory timeline was very aggressive and asked if it was necessary. He also commented on the impact that this regulatory change would have on affected entities.

Ms. Brumbaugh commented that if localities could incorporate permit changes by reference, then the process of local programs would be expedited. With a more streamlined process, a full year would not be needed prior to July 2014 deadline for a local program adoption for land-disturbing activities. She also commented that opinions would be needed from the Office of the Attorney General.

Ms. Snead clarified that a number of localities have asked for at least a year, or as much time as possible, to develop and get their programs in place. Many have requested a model ordinance be provided. All local programs must be adopted and operational by July 1, 2014. To try to be as responsive as possible to the localities, recognizing that they will have many challenges in developing and adopting programs, the agency is using an expedited process for this regulation.

Mr. Toalson commented on the timeline and indicated that, for DCR to be conducting this regulatory activity during the 2013 session was in conflict with the demands of the

General Assembly session. He commented that work related to the 2013 session would begin in November and this regulatory action in progress at the same time could cause a scheduling conflict. Mr. Toalson asked for reconsideration and again questioned whether the July 1, 2013 date is practical since the actual implementation date is July 1, 2014. Ms. Snead clarified that only the two public hearings may present scheduling challenges related to the 2013 General Assembly. She noted that the 60-day public comment period should not pose a conflict for the agency.

Ms. Sanner commented that he respected Mr. Toalson's comments but indicated that this is an important regulatory action to complete and that there is no option for administrative continuance.

Ms. Snead indicated that DCR is conducting regional outreach meetings that have been well-attended. Ms. Snead indicated that localities want to know what needs to be done and that she also appreciated Mr. Toalson's concerns.

Regulatory Advisory Panel (RAP) Charge

- The purpose of the panel is to assist in developing amendments to the Construction General Permit (GP). This panel has been formed to help DCR and the Soil and Water Conservation Board balance the thoughts and concerns of all those interested in this regulatory action. All such thoughts and concerns will be addressed by the panel, and any panel member is free to advance any opinion.
- The role of the panel is advisory. The panel's primary responsibility is to collaboratively contribute to a regulation that is in the best interests of the Commonwealth as a whole and that is compliant with state and federal law.
- The panel's goal is to reach a consensus on these regulations and make recommendations to the DCR and the Soil and Water Conservation Board. For the purposes of this RAP, consensus is generally defined as a willingness of each member of a panel to be able to say that he or she can live with the decisions reached and will not actively work against them outside of the process.
- This is not to say that everyone will be completely satisfied by the results of the process. It is necessary, however; that each participant come prepared to negotiate in good faith around complex and sensitive issues. Also, because the panel represents many different interests, all members should expect to compromise in order to accomplish the group's mission. If the group cannot reach consensus, DCR staff will advance as a recommendation what it views is the best balanced regulation but will present the differing opinions to the Board.
- Voting, per se, is contrary to a consensus-based process, but people may be asked to demonstrate their strength of feeling for or against a particular idea, and may be asked to help set priorities during the course of the process.

Ms. Snead then went over the comments received on this regulatory action to date. These comments were provided to the RAP.

Mr. Toalson provided clarification regarding one of the comments, which was received from Mr. Rolband. Mr. Toalson indicated that the comment referenced moving the permit process down to the local level. Mr. Toalson questioned why local stormwater requirements could not take into consideration subdivision development and permit requirements. Mr. Beisch indicated that he understood Mr. Rolband's comment to address the need to streamline processes at the local level and not have totally separate processes. It would be much easier if localities would streamline their permitting process; an example given was that a locality should only approve a site plan when *both* state permits are approved.

Mr. Beisch asked when the erosion and sediment control regulations would be opened. Ms. Snead indicated that an internal review was underway and that an exempt action would be advanced to conform the regulations to the changes made within this past Session's integration bill (House Bill 1065/Senate Bill 407.) Ms. Snead referenced that this action is targeted for the September 2012 Soil and Water Conservation Board meeting.

Ms. Prévost-White commented that the process is left up to what is specific to each locality and not every locality has a site plan process. She also commented that parts of the local process are detailed and may not have to be handled in this RAP.

Review of Current Permit

Mr. Fritz went over the current requirements of the VSMP permit regulations. He commented that there needs to be a focus on what is in the permit and on issues outside of the permit as well.

Section of Regulations Under Examination:

- Section 10 - Definitions
- Section 1100 - Definitions
- Section 1110 - Purpose
- Section 1120 - Effective Date of the Permit
- Section 1130 - Authorization to Discharge
- Section 1140 - Qualifying State and Local Programs
- Section 1150 - Permit Application (registration statement)
- Section 1160 - Termination of Permit Coverage
- Section 1170 - General Permit
- Section 1180 - Applicability
- Section 1182 - General
- Section 1184 - Water quality
- Section 1186 - Stream Channel Erosion
- Section 1188 - Flooding

- Section 1190 - Regional (watershed-wide) Stormwater Management Plans

Mr. Fritz indicated that sections 1180 through 1190 would be deleted from the regulatory revisions as these sections are no longer necessary.

Ms. Cosby asked about what conditions in Part III of the regulations (General Provisions Applicable to Stormwater Program Administrative Authorities and to Local Stormwater Management Programs) are applicable to all permits.

Discussion of Identified Issues

Mr. Fritz provided an overview of following issues for the RAP to discuss in its meetings.

Seek Ways to Simplify the Permit Language - Mr. Fritz mentioned that terminology will need to be changed because of House Bill 1065 and Senate Bill 407. Regulatory revisions will also clearly state what is required.

Implementation of Federal Effluent Limitations Guidelines (ELGs) - In his presentation, Mr. Fritz pointed out that ELGs do not specify how to comply with certain requirements and the fact that it is difficult to determine compliance. Mr. Fritz also covered ELG discharge prohibitions and the utilization of minimum standards. He emphasized the need to use 'easy-to-understand' language to implement ELGs.

Compliance with Total Maximum Daily Loads (TMDLs) – In his presentation, Mr. Fritz indicated that TMDLs and construction stormwater do not mesh. Permits are constantly changing and the number of acres disturbed may be different on any given day. The RAP will examine ways to address discharges in a manner that addresses the fact that there is a TMDL while still recognizing that uniqueness of construction stormwater activities.

Clarification of Roles and Authorities for Construction Activities that Occur in More than One VSMP Authority's Jurisdictional Boundaries - Some construction activities occur across jurisdictional boundaries while others have support activities such as borrow pits and fill sites that occur in other jurisdictions than the construction activity.

Ms. Prévost-White asked whether the RAP was looking at both ELG and minimum standards and if permit language was being aligned to meet federal requirements.

Mr. Toalson commented that it is difficult to comply with permit conditions when there are no maps of specific locations, and strongly suggested the need for maps of TMDLs and stream impairments. Mr. Fritz indicated that there are state agencies working on tools to rectify this issue so that project location can be pulled into permits. Mr. Beisch indicated that the re-wording of language will be tricky and the impact needs to be examined.

Mr. Nunnally commented that it would be helpful to have a list of TMDL impairments that are construction-related. Mr. Fritz indicated that this could be tricky but that work would be done. Sediment is the primary impairment related to TMDLs, but other impairments relating to construction can be site specific and may include pH, nutrients, PCBs, and other items. Mr. Fritz also commented that it may be better to have some more prescriptive requirements so that affected entities know what they have to do.

RAP Identification of Issues and Discussion

Ms. Denckla Cobb invited the RAP to identify additional issues that had not yet been covered by the agency or by submitted comments.

Mr. Paine commented on the Chesapeake Bay TMDL and indicated that the RAP should not try to solve more problems than it can. The RAP needs to stay general and handle issues under Erosion and Sediment Control (E&S) guidelines, which are circumstance specific. A cautionary note was also raised that specific numbers should not be ascribed to specific BMPs, as a way of achieving the TMDL.

Ms. Sanner raised an additional issue, asking if there would be time to discuss specific concerns with language in regulations. She cited concerns that she had regarding the existing regulations (State Water Control Board TMDL).

Mr. Kelble raised an additional issue of advance notice of permit authorizations.

Common Plan of Development Presentation and Discussion

Mr. Fritz provided the following information on this issue:

Define Common Plan of Development – This part of the federal regulations references both small and large construction activities.

- "Large construction activity" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. **Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more.**
- "Small construction activity" means:
Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, and less than five acres. **Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres.**

At the federal level, this term is defined as a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules. In his presentation, Mr. Fritz provided examples of how other states (such as Texas and Georgia) have dealt with this issue. He also outlined why the issue of a common plan of development is important now:

- VSMP authorities at the local government level will soon be involved.
- These authorities must ensure that regulated construction activities obtain and comply with the VSMP permit.
- Concern regarding additional costs as a result of increased compliance efforts, such as total maximum daily loads (TMDLs), ELGs, etc.

With implementation of the revised regulation, a construction activity that is part of a common plan of development or sale pays an amount based on their individual land disturbance and not the amount based on the master construction activity.

Mr. Toalson commented that liability is issue and a common plan is not looking at liability. He inquired as to how the regulatory process will recognize what is already in place.

Mr. Fritz emphasized that most common impact is on the construction of single family residences. He also mentioned that, typically, 42 percent of land is found in less than three percent of permits.

Mr. Toalson asked how the permitting process could be accomplished efficiently but in compliance with EPA requirements. He asked if, given this is a statewide law and DCR has a staff of only eleven, would there be a rebellion? Mr. Fritz indicated that there will be examination of the tools available related to single family homes and the use of a simple template for permits. Mr. Fritz cited Arkansas as an example of a state with such a template.

Mr. Beisch cited an issue with the common plan. He stated that there is a way that master plan communities are developed. Site plan is tied with permit review and some new permits may not be counting individual lots. Mr. Beisch asked how the process could be minimized/simplified into one policing/inspection model. Mr. Fritz indicated that this could be an issue regarding how application is made.

Mr. Nunnally commented that the permitting process would become cumbersome if it needed to be applied to each individual lot. There will be a multiplication of permits and enforcement will become very difficult. How can it be made easier for the builder?

Ms. Prévost-White asked about the difference between guidance and regulatory change. Mr. Fritz indicated that DCR fact sheets should provide adequate guidance.

Mr. Toalson indicated that it would make sense to have separate guidance for commercial and residential development.

Mr. Beisch commented that infrastructure and (commercial and residential) should be simplified after looking at E&S permits.

Mr. Toalson commented that change does not happen easily. There is underlying zoning that prohibits development without review.

Mr. Kelble commented that he had questions regarding how localities review enforcement and how builders are affected regarding sediment control issues.

Ms. Denckla Cobb summarized her understanding of what was being proposed: that DCR would develop a fact sheet with adequate guidance to localities on how they might simplify the permitting process for single family homes.

Mr. Kelble asked about how the revised regulations would address large land developments where some sections are completed but others are not yet been completed. Mr. Fritz commented that the process should be easier in the future, especially in cases where development is within the permit in terms of Stormwater Pollution Prevention Plan (SWPPP).

Mr. Kelble also inquired as to how the development phase will be determined. Mr. Fritz commented that you could write out in each section of SWPPP where actual construction takes place. This needs to be considered with large scale projects because permits stay open.

Ms. Prévost-White commented that that the process could result in an entity have to obtain a permit every time the entity stops and starts. In some case, there could be projects that are open for 10 years. Ms. Brumbaugh indicated that this is an issue if an operator is tied to the permit and must have coverage. Mr. Fritz commented that large developments have to be considered.

Mr. Nunnally commented that different best management practices (BMPs) have to be examined, particularly those BMPs in the Chesapeake Bay.

Mr. Kelble commented that sediment is a priority until a site is clear.

Mr. Beisch commented that a master developer may have a site completed but still have a bond. What happens if sediment is going into pond? Mr. Fritz commented that this may be more of an issue for a permit that did not address common plans.

Mr. Toalson commented that, to push the process down to localities, a great deal of knowledge would be needed. He asked if, instead of two permits, could there be a two-part permit (building and E&S), where there could not be a building permit without an E&S permit? Could the process be simplified?

Ms. Snead commented on the purpose of one-stop shopping at the local level. An entity should be able to obtain all permits needed right away. E-permitting will assist with this and localities will be encouraged to integrate programs where possible and to utilize model ordinances, but the state cannot require localities to adopt an integrated process.

Mr. Kelble commented that duplicative processes are painful. Mr. Toalson commented that broader compliance is better.

Ms. Brumbaugh asked whether EPA fact sheets must be followed and are considered mandatory. She also asked if the term “common plan of development” is defined in federal regulation. Mr. Fritz indicated that this exact term was not defined in federal regulation.

Ms. Denckla Cobb summarized that DCR’s goal for this RAP and this regulatory action is to provide as much clarity as possible.

Local Stormwater Program Impacts Presentation and Discussion

In his presentation, Mr. Fritz provided the following information:

- Currently, a construction activity that is part of a common plan of development or sale pays the same amount as the master construction activity. There is no distinction.
- With implementation of the revised regulations, a construction activity that is part of a common plan of development or sale pays an amount based on their individual land disturbance and not the amount based on the master construction activity. There is a distinction.

In terms of what the role of ‘local’ authorities have regarding this permit, the following information was shared:

- Ensure that the necessary information is submitted for review and entered accurately into the e-permitting program that is being developed.
- Ensure that the erosion and sediment control plan and the stormwater management plan are designed and installed in accordance with the appropriate regulations.
- Ensure that the appropriate fees are collected.
- Ensure that additional activities identified in the permit are implemented in accordance with the Pollution Prevention Plan.
 - Proper concrete washout
 - Chemical storage
- Ensure that additional permit requirements such as those required for TMDLs and impaired waters are implemented as defined in the Pollution Prevention Plan.
- Ensure that self-inspections and BMP maintenance are being completed in accordance with the permit.
- Ensure that the required items are included in the SWPPP.
- Ensure that the post-development BMPS are reported in the e-permitting program.

In his presentation, Mr. Fritz pointed out that VSMP authorities are the state's agents for implementation of this permitting program and highlighted the following:

- Where there are legal authorities, there is an expectation that they be used.
- Where there are no legal authorities, the NPDES permits and the legal authorities provided under the federal Clean Water Act (CWA) are still in place.
- The more prescriptive the permit:
 - The easier it is to comply with.
 - The easier it is to determine compliance.
 - The easier it is for local authorities to monitor.

Ms. Prévost-White asked about guidance and whether there would be just regulatory changes or a 'codebook' with commentary and would explain what terms means and how they should be applied. She would like to have a document that provides enough clarity that she could just hand it off to contractors.

Mr. Lannin indicated that a flow chart would be helpful.

Mr. Nunnally indicated that he had concerns regarding Sections 1180 and 1190 and the proposed deletion of these sections.

Mr. Nichols commented that training of local government will be essential, with FAQs and a template for the SWPP.

Mr. Beisch commented that flowcharts would helpful as well as procedural guidelines. These documents should be provided before final regulations go before the Soil and Water Conservation Board.

Ms. Brumbaugh commented that most localities do not know about federal guidance regarding the NPDES definition of instructional activity. She also asked if site inspection/permitting could be streamlined.

Mr. Paine voiced concerns about resource issues, and supported the need for training for localities. The recovery of fees is an incentive but there is a need to streamline and minimize processes. He also asked if there could be a standardized format for BMP inspections as this is an important issue for small localities.

Mr. Nunnally asked if there could be individual flexibility as this will be a difficult issue for rural localities. Ms. Snead mentioned regional meetings being held to help promote flexibility and offer different options.

Mr. Toalson asked about the role of local governing bodies versus planning district commissions.

Mr. Lee commented that termination notices for permits do not correspond with bonds. Mr. Fritz commented that some localities hold bonds.

A member asked about complaints received from landowners and E&S issues when bonds still in effect.

A member asked about early grading permits issued by localities. Could those projects hold a permit? Mr. Fritz indicated that this issue would be examined. Mr. Beisch commented that it would be good to streamline this process.

Mr. Nunnally asked if there was a way to get credit for BMPs that do not rise up to a defined standard. Mr. Fritz indicated that this issue would be examined.

Provision of General Information on Consensus Building

Ms. Denckla Cobb discussed this process and covered how consensus is defined and where consensus is helpful and where is it not helpful.

RAP General Questions

Mr. Toalson commented that he appreciates the efforts of DCR to reach consensus. He indicated that this issue is overwhelming for his industry and for the regulatory community. If the RAP can come up with a template that creates and addresses individual lots, that would be helpful.

Ms. Brumbaugh inquired about the interpretation of definitions to apply to phased development.

Mr. Kelble reiterated concern over the likelihood that permits will multiply and also expressed concerns over liability for E&S.

Public Comment

A comment was made that the General Assembly session take precedence and concerns were expressed about the current schedule for the regulatory revisions.

Next Steps/Next Meetings

It was noted that the next meeting would be September 19, 2012 at 10:00 am. Meetings will also be held on October 4, 2012, October 17, 2012, and November 1, 2012.

The meeting was adjourned.