

DEVELOPMENT OF GUIDANCE FOR CHESAPEAKE BAY TMDL ACTION PLANS AND LOCAL TMDL ACTION PLANS REQUIRED BY MUNICIPAL SEPARATE STORM SEWER (MS4) PERMITS

STAKEHOLDER ADVISORY GROUP

**MEETING NOTES - DRAFT
THURSDAY, AUGUST 15, 2013
DEQ PIEDMONT REGIONAL OFFICE TRAINING ROOM**

Meeting Attendees

<i>SAG MEMBERS</i>	<i>INTERESTED PARTIES</i>	<i>SUPPORT STAFF</i>
Phil Abraham – The Virginia Association for Commercial Real Estate	Marc Aveni - Prince William County	Kelsey Brooks - DEQ
William Bullard – Navy Facilities	Mike Barbachcum - URS Corp	Scott Crafton - DEQ
Brad Copenhaver - Virginia Agribusiness Council (Alternate for Katie Frazier)	Joe Battiatia - CWP	Melanie Davenport - DEQ
Camille Cook - Dominion (Alternate for Rick Woolard)	Aislinn Creeth - Timmons	Bill Keeling - DEQ
Chip England – Hanover County	Benjamin Eib - Prince William County	Bill Norris - DEQ
John Euson - Spotsylvania County (Alternate for Richard Street)	Alex Forasté - WEG	Ginny Snead - DEQ
Scott Flanigan – Chesterfield County	Doug Fritz - GKY	<i>OTHER DEQ STAFF</i>
Dan Frisbee – City of Charlottesville	Tom Gallo - ARCADIS	Jaime Bauer
Normand Goulet – Northern Virginia Regional Commission (PDC)	Carolyn Howard - Draper Aden Associates	Cindy Berndt
Leroy (LJ) Hansen – City of Suffolk	John Paine - URS	Chris Brosch
David Henderson – Roanoke County	David Powers - WEG	Fred Cunningham
Steve Hubble – Stafford County	Liz Scheessele - Timmons	James Golden
Adrienne Kotula – James River Association	Justin Shafer - City of Norfolk	Drew Hammond
Larry Land – Virginia Association of Counties	Chris Swanson - EEE	Brandon Kiracofe
Jessica Lassetter – Thomas Jefferson Soil and Water Conservation District	Glenn Telfer - DAA	Susan Mackert
Grace LeRose – City of Richmond	Jenny Tribo - HRPDC	Liz McKercher
Roy Mills - VDOT (Alternate for Tracey Harmon)	Christine Watlington - VDOT	Mark Sauer
Jason Papacosma – Arlington County	Richard West - Town of Dumfries	Jeff Selengut
Steve Plante – Loudoun County	Randall Williford - Loudoun County	Bryant Thomas
Peggy Sanner – Chesapeake Bay Foundation		Kyle Winter
Betsy Smith – Fairfax County		Melinda Woodruff
Mike Toalson – Home Builders Association of Virginia		
Keith White – Henrico County		
Rick Woolard - Dominion		
Weston S. Young – City of Hampton		

NOTE: TAC members not in attendance included the following: Katie Frazier - Virginia Agribusiness Council; Tracey Harmon - Virginia Department of Transportation; Richard Street – Spotsylvania County; Joe Lerch - Virginia Municipal League; Trafford McRae - City of Waynesboro; Rick Woolard - Dominion

1. Welcome & Introductions (Ginny Snead/Bill Norris):

Ginny Snead, Manager of DEQ's Stormwater Management Program welcomed the members of the MS4 Stakeholder Advisory Group and members of the interested public to this the first meeting of the MS4 TMDL Action Plan Guidance Stakeholder Advisory Group. She noted that this group had been formed and convened to get some feedback on the development of guidance for MS4s, specifically what they will need to do for action plan requirements of the new MS4 permit. The new MS4 permit, the General Permit that went into effect in July of this year and the Phase I permits that are going through the reissuance process, all have a special condition for the Chesapeake Bay TMDL. The language for that special condition has been negotiated with EPA. Specific requirements are spelled out in that special condition. DEQ has formed this group to help develop guidance for what will be expected from permittees to meet the requirements of the Chesapeake Bay TMDL special condition.

She asked for introductions of all of the members of the advisory group and other meeting attendees.

Bill Norris asked for all attendees to sign the sign-in sheet so that we could have an accurate record of attendance.

Copies of the materials that had previously been sent out were distributed to members of the advisory group.

2. Role and Function of the MS4 TMDL Action Plan Guidance Stakeholder Advisory Group - Public Bodies and the Requirements of the Freedom of Information Act (Cindy Berndt/Bill Norris/Ginny Snead):

Cindy Berndt, Director of DEQ's Office of Regulatory Affairs, provided an overview of the role and function of the advisory group as it relates to the Freedom of Information Act (FOIA). She congratulated all of the members of the advisory group on their appointment to this group and told them that they were now members of a public body. She noted the following:

- As a member of a public body you are now subject to the requirements of the Freedom of Information Act. DEQ staff will handle a lot of those requirements for you, relative to keeping the required records, the public notice requirements, the requirements for minutes of the meetings to be done, administrative paperwork, etc.
- All of the meetings of the advisory group are open to the public.
- Anyone who wants to record the meetings is welcome to do so as long as they do not disrupt the meeting, but they can record.
- It is important to be aware that as a public body and being subject to FOIA, all of the business of the group has to be done in public at a "noticed" meeting.
- All email correspondence relative to the business of the advisory group should all come from DEQ. Individual members of the advisory group should not be distributing or sending emails related to the business of the group to other members of the group. Individual members who

have information that they would like to be considered by the group should send that email request to DEQ staff, either to Ginny Snead or Bill Norris for distribution to the members of the group. When you get an email from Ginny or Bill to the group do NOT "Reply to All". FOIA has not really addressed emails, but what some of the judges are looking at is an email has the potential to being almost instantaneous discussions. It has the potential for looking like you are conducting business outside of the public arena, outside of a "noticed" meeting. Nobody on the group should be emailing other members of the group regarding the business of the group. One-on-one conversations or one-on-one emails between individual members of the group are fine, but once that goes beyond a "one-on-one" situation to more than two then you start having issues.

- Relative to documents - DEQ is the custodian of those records. In order to have a complete record of the business of the advisory group and what the group has done, all of the group's communications need to go through Bill Norris or Ginny Snead. We need to have a complete record of this group for purposes of our files and for documentation requirements.
- Our main responsibility is to make sure that you do not violate the Freedom of Information Act.
- Any questions related to FOIA can be directed to her at cindy.berndt@deq.virginia.gov.

Bill Norris informed the group that all of the correspondences related to the business of the group are being sent as "blind copies" to help to discourage the use of the "reply-to-all" response. He noted that he would be coordinating distributions and correspondence to the group with Ginny Snead throughout the process.

Ginny Snead noted that these are statewide requirements and are not specific to DEQ. These rules and requirements are the same ones that were used in the previous stakeholder advisory group meetings conducted by DCR. We wanted to make sure that anyone who is a member of this group who may not have served on a similar advisory group was aware of the rules that need to be followed.

3. Overview of MS4 Special Condition Permit Requirements and DEQ Expectations for the Guidance (Ginny Snead):

Ginny Snead noted the information relative to the draft guidance and the expectations and role of the advisory group relative to the development of the guidance had been distributed prior to today's meeting. The special condition language (permit condition) relative to the Chesapeake Bay TMDL has been approved by EPA and is in effect for the General Permit and the Arlington permit and is not up for negotiation. We want to focus on the "action plans" and what we are expecting as far as the methodology and the reporting aspects and making sure that everyone is aware of the expectations of DEQ are as we review and approve those plans. We are looking to establish a level playing field so that we can get consistency in reporting and consistency in the methodology that is applied during the development of those plans. We want to have consistent and uniform reporting and a better reporting scheme relative to the Chesapeake Bay TMDL and our reporting to EPA. The primary focus of this guidance is the Chesapeake Bay TMDL Action Plan, but it is anticipated that there will be some uniformity with other action plans that are expected for other TMDLs that are in the permit so to the extent that it makes sense we will keep that in mind and accommodate that in the guidance.

Discussions by the Stakeholder Advisory Group included the following:

- Is this guidance just for the 11 Phase I large municipal permittees? *This guidance is for all of the MS4 permittees, so the 11 large individual permits as well as anyone that has coverage under the MS4 General Permit. In addition, non-regulated localities within the Chesapeake Bay watershed are encouraged to follow this same methodology and reporting.*
- Are all of the 11 large MS4 localities represented on this advisory group? *No, we tried to have a representative mix of those MS4 localities that are covered under individual permits as well as those covered by the General Permit.*
- What is the schedule for the rest of the day? How far in the agenda are we planning to go before we break for lunch? *We are hoping to get through all of the presentations before we break for lunch. We will provide enough time for everyone to get their lunch and return since lunch is not being provided. In the afternoon, after lunch, we will go through the draft guidance document.*
- Relative to the make-up of this committee - this guidance is for those people who have to develop implementation plans to meet the permit requirements, so if you are not a permittee or a representative of a permittee why are you at the table? *The committee make-up was based on a public process and specific requests from individuals to be considered for membership on the committee. DEQ put together a representative group of stakeholders based on the requests that it received.*

4. Presentation - Historical Reporting of Urban Practices to EPA Bay Program (Bill Keeling)

Bill Keeling provided information to the group on historical reporting of urban practices to the EPA Bay Program. His presentation included the following:

- Urban Reporting Before the Bay TMDLs (through 2009):
 - No standardized data collection/reporting system;
 - State provided BMP input deck that represented best understanding of cumulative and annual practice implementation levels;
 - Based on what was reported;
 - Translated from local reported nomenclature to Bay Model BMPs (Pond type 1. Pond type 2, "other")
- Urban Reporting Post Bay TMDLs (2010 through 2012):
 - No standardized data collection system - E-permitting in the horizon;
 - National Environmental Information Exchange Network (NEIEN) - EPA's somewhat standardized data exchange system;
 - Based on what was reported implemented between July 1 and June 30 (VA fiscal year) - For example 2013 annual data report is for BMPs implemented between June 30, 2012 and July 1, 2013 - Included data reported to the state post model calibration if not previously reported (January 1, 2006 till June 30, 2012)
- Current Sources of Urban BMP Data:
 - MS4 annual reporting;

- Chesapeake Bay Preservation Act reporting;
- VSMP reporting;
- Erosion and Sediment Control Program reporting;
- Direct reporting from non-MS4 jurisdictions;
- WIP 2 effort to characterize local land uses and BMP implementation
- Future Urban Reporting Needs:
 - VA needs to develop a standardized digital way to collect BMP implementation from local implementation - e-permitting is a start maybe not final solution;
 - Translation from locally used BMP nomenclature to standardized statewide collection system where locality makes translation call;
 - Reporting must be verifiable - exists and functional at time of reporting (maintenance records)

Discussions by the Stakeholder Advisory Group included the following:

- *There are real world BMPs and "model world" BMPs. Some of the data that was received was in the form of "pond type 1" or "pond type 2" or "other" - that kind of data ("other") was "put-aside" because we couldn't determine how to classify the information or into which data category it belonged. So the information was not recorded.*
- *The National Environmental Information Exchange Network (NEIEN) is not a static database - the requirements for submission of information are constantly changing.*
- *The model was calibrated from 1985 to 2005. Any data that we didn't already have was estimated based on when laws and ordinances were enacted.*
- *Given the BMP requirements, accurate data reporting is very important to this process. There is a Phase 6 model that is coming out in the future - we would to replace the estimated data with real data in that process.*
- *At what scale are the local BMPs applied in the model? They can be applied at multiple scales and the data reported (i.e., hydrologic unit data) may be aggregated. There are inherent conflicts between "real world implementation" and "model world rules" of BMPs and land-use. It is frustrating when "model world rules" throw away "real world implementation".*
- *During the WIP 2 process we did get new data on local implementation that occurred between the end of the calibration in 2005 and 2009, even up to 2012. If it was new data that hadn't been reported and didn't impact the calibration, it was reported to EPA this past year since they said we could.*
- *The current sources of BMP Urban BMP data include: MS4 annual reporting; Chesapeake Bay Preservation Act; VSMP reporting; E&S Control Program; 319 Reporting; Southern Rivers locality reporting and direct reporting from non-MS4 jurisdictions.*
- *There is a need for a standardized reporting system.*
- *Would it be possible to get a report for each locality as to what implemented BMPs have been reported? DEQ staff would have to go through each of the submittals to identify those BMPs*

that have been reported as implemented, before a request for what the terms used in the report actually mean to the locality.

- *Would it be useful to the locality to know what has been reported and what is included in DEQ's reports to EPA for each locality/permittee? Isn't that information included in "VAST"? A database of that type of information could be developed in the future. The information being discussed and presented is "what is going on now and what types of information and data that we currently have" and not an examination of how we might improve the data collection system in some future process.*
- *It was noted that some post-calibration data has been reported for some localities. What is the result of that new data? Does that data change the calibration or change the starting point that was put in the permit? Everything that has been done since 2009 would count towards the starting point. What is important is the date specified in the permit. The starting point in the permit is June 30, 2009. The information that wasn't reported in the original model is irrelevant because of the calibration that was done in 2009. The important thing is what the permittee needs to do to be in compliance with the current permit. The questions are what are your current permit requirements and how well are you meeting those requirements.*
- *It was noted that a "clean starting point" is needed for a permittee to evaluate their permit and the meeting of their permit requirements. It would be good to know what is in the DEQ records as to what was on the ground in 2009 and what needs to be improved upon from that point forward. There needs to be a clear point of demarcation that says this is where we think you were. We can discuss that and see what we can do about it, but we are not sure how relevant that information will be because of the calibration run that was done and that is what the permit conditions are set on. BMPs are only reported when they are in the ground. We only look at implemented BMPs.*

ACTION ITEM: DEQ staff will discuss this request related to establishment of a "clean starting point", i.e., what is in the DEQ record as being in the ground, prior to the next meeting and get back to the group.

- *It might be useful to have a dialogue between DEQ and locality as to what BMPs the locality has in the ground. This type of data can be difficult to come up with. There needs to be some professional judgment exercised as to what has been reported. We need to determine what improvements we need to do.*
- *EPA will be looking in the future at verification of the information that is reported, i.e., O&M records. EPA is still trying to determine what "verification" will actually require. What we are trying to identify is what reporting requirements we are going to need to be able to verify the reported information at the state level.*

5. Background on Current BMPs and Efficiency Methodologies - Accounting for Pollutant Removal of BMP Clearinghouse Retrofit BMPs (Scott Crafton)

Scott Crafton with DEQ's Office of Stormwater Management provided information on the Virginia

BMP Clearinghouse. He noted that this part of the discussions is to address the requirements for reporting for the use and implementation of the 15 non-priority or public domain BMPs that are identified in the Virginia BMP Clearinghouse and using them to get credits for meeting their goal under their permits. His presentation included the following:

- Examples of Urban Retrofit BMPs in Charlottesville;
- Virginia Stormwater BMP Clearinghouse Website - Design standards and specifications of BMPs approved for use in Virginia to control the quality and/or quantity of stormwater runoff (<http://vwrrc.vt.edu/swc/>);
- Examples of Traditional Runoff Treatment BMPs;
- Examples of Runoff Volume Reduction/Low Impact Development (LID) BMPs;
- Assigned BMP TP and TN Removal Efficiencies found in Table 1 - Comparative Runoff Reduction and Nutrient Removal for Practices - does not currently address sediment;
- Runoff Reduction Method Spreadsheet - A compliance tool, NOT a design tool: Calculates treatment volume & pollutant reduction requirement - Tracks & totals BMP pollutant removals;
- The land cover types included on the spreadsheet are: forest/open space; managed turf; and impervious cover.
- The spreadsheet calculates Contributing Drainage Area (CDA) Nutrient loads;
- The W.Q. Compliance Tab calculates the nutrient load reduction;
- The load reductions are also shown on the Summary Page/Tab on the newest version of the Runoff Reduction Method Spreadsheet;
- Nonconforming BMP designs (i.e., the BMP is not on the approved list; or there may not be enough room to install the BMP entirely by spec; or it is an older BMP that you are modifying to upgrade and enhance it):
 - The EPA Chesapeake Bay Program has approved an Expert Panel Report on accounting for the performance of various categories of Retrofit BMPs (<http://www.chesapeakebay.net/publications/title/stormwater> retrofits expert panel report with appendices);
 - This information is also included in Chapter 7 of the upcoming 2nd edition of the Virginia Stormwater Management Handbook.

Discussions by the Stakeholder Advisory Group included the following:

- Regarding reporting – it is understandable that there needs to be a standard way to report the information. Up to this point a lot of the BMPs are ponds or basically stand alone practices. We are going to be going into more of a "treatment train" style approach, where there may be multiple types of BMPs utilized on a site. Are we going to have to report the BMPs as individual practices or as a total "treatment train"? Is there a standard way to report "treatment train approaches" to the use and implementation of multiple BMPs? *For BMPs that treat the same drainage area, the permittee will either need to utilize the Runoff Reduction Methodology spreadsheet which will account for the treatment train or if they use the runoff curves that have*

been developed they will need to use their best professional judgment to identify the predominant BMP for that treatment area that has been implemented.

- *Is a treatment train, utilizing multiple BMPs, considered one BMP? The concern will be verification – if you have three BMPs in a treatment train then all three of those BMPs will need to continue to function for your credit to be valid. If you are dealing with BMPs that off of the approved list you would need to report on each BMP independently. It is essentially a bean counting exercise in the Bay Program.*
- *There will be new state performance standards approved shortly (will be published soon) that will require reporting by jurisdiction on the basis of "number of acres treated" so it will eliminate the need or problem of having to report the predominant BMP. It will look at the number of acres treated and the number of pervious and impervious acres. Use of the new performance standards will eliminate the need to report the predominant BMP or a "train" of BMPs. For compliance with state regulations and requirements, the permittee will likely have to still report on each component of the system to ensure that they are complying with the requirements.*
- *The proposal that is being discussed is to use the runoff reduction methodology spreadsheet to calculate the loading to the land.*
- *When does the efficiency number that is calculated by the runoff reduction methodology get translated to something to report to the Bay Program?*
- *Need to start using standardized language – are we dealing with a "lbs" reduction requirement or a percent removal efficiency calculation? If our permits are in lbs why are we talking about efficiencies? For each BMP, the permittee needs to determine the efficiency of the BMPs utilized and then apply that efficiency to the load to calculate "lbs".*
- *The end goal is to put money into putting BMPs into the ground that will be the best bang for the buck – are the most efficient practices for a specific location in the landscape. Siting is a big part of that. Drainage area is a big consideration.*
- *In the spreadsheet you end up with a load reduction shown in lbs. There are currently 15 public domain BMPs but over time as additional BMPs are approved they will be added to the list.*
- *Are these the only acceptable methods of calculation? These are what have been approved by the state and by the Bay Program. These methods also provide the most consistency with other existing programs. We really want to see consistency in the reporting methodologies, so we are promoting the use of the methods that are being discussed today.*
- *What is the next step after development of this guidance? Does it get adopted by the State Water Control Board as the way to do it? Or are there other options that might be allowed? Is this guidance as this is one way to do it? This is guidance so the permittee will know what we are looking for. If someone came up with a different approach, how would that be handled? If the permittee comes up with something different, something that was not consistent with the guidance, we would have to do a case-by-case review to determine whether you were in compliance with your permit conditions/requirements.*

6. Background on Current BMPs and Efficiency Methodologies - Bay Program – Chesapeake Bay Program Approved Efficiencies (Ginny Snead)

Ginny Snead provided an overview of the requirements for reporting for the use and implementation of retrofits BMPs that are not on the Virginia BMP Clearinghouse website list. These BMPs could be on the Chesapeake Bay Program approved list or not on any specific list at all. Her presentation included the following:

- MS4 Permit 2013 – 2018 (This guidance is for the current permit term 2013-2018.);
 - Chesapeake Bay Program
 - § Evolving Efficiencies
 - § New Model, Tools Expected
 - § Model Driven
 - Chesapeake Bay Special Condition Requirements
 - § Chesapeake Bay Special Conditions Requirements
 - § Calculations of Total Reductions
 - § Calculations of 5% of Total – Implemented this Permit Cycle
 - § Planning for Reductions in Total Reductions – Reapplication in next permit term
- Bay Program 2013
 - Bay Program Approved BMP – specific Efficiencies (table of these are not currently in the guidance – still being worked on – will be included in the final guidance document)
 - Urban Stormwater Work Group Publications
 - § Recommendations of the Expert Panel to Define Removal Rates for Urban Stormwater Retrofit Projects
 - § Recommendations of the Expert Panel to Define Removal Rates for Individual Stream Restoration Projects
- Retrofits
 - Only Credit for BMPs after June 30, 2009
 - Not Previously Reported to Bay Program = New BMP
 - Approved BMP-specific Efficiencies or Curves – Previously reported BMPs – only get credit for incremental increases in efficiencies.
 - What you Need to Know to Use the Curves (the curves are included in the guidance):
 - § Runoff Reduction Method Spreadsheet = Loads
 - § Calculate Runoff Depth Captured
 - § Runoff Reduction or Stormwater Treatment Practice
 - § Best Professional Judgment (BPJ) – if more than one BMP type
- Bay Program Retrofit Categories
 - New Retrofit Facilities
 - § Near Existing Outfalls
 - § Within Existing Conveyance System

- § Adjacent Large Parking Lots Surfaces
 - § Green Streets
 - § On-site LID
- Existing BMP Retrofits
 - § Conversions
 - § Enhancements
 - § Restorations
 - Major Sed. Cleanouts; Veg. Harvesting; Filter Media; Complete Rehab.
- Design Examples – BMP Conversions – Pollutant Removal Efficiencies
- Runoff Depth Captured per Impervious Acre – Total Phosphorus Removal for RR and ST New Development Practices
- Stream Restoration (it is a very long-thick document with a lot of examples)
 - Four Protocols – Non-Tidal:
 - § 1. Prevented Sediment During Storm Flow
 - Channel or Bank Erosion – Monitoring/BANCS
 - § 2. Instream and Riparian Nutrient Processing during Base Flow
 - Denitrification – "Box" Model
 - § 3. Floodplain Reconnection Volume
 - Floodplain Reconnection Removal Curves
 - § 4. Dry Channel Regenerative SW Conveyance (RSC) as an Upland SW Retrofit
 - Calculate Using Retrofit Curves

Discussions by the Stakeholder Advisory Group included the following:

- If a farm pond was never reported, how it is treated? *If it has never been reported than it could be considered a new practice. If it was reported as part of the base-line data, but has been upgraded or enhanced then the incremental increase in efficiencies would be reported.*
- Knowing what has been reported in the past would be good to know. *This is a big paper chase issue and therefore you will need your best professional judgment as to what is included.*
- How will practices that have not been approved or are not on the approved list of BMPs be handled? *As noted previously any practice or BMP that is not on the approved list that is proposed for inclusion in a plan would need to be evaluated on a case-by-case basis as DEQ reviews the action plans.*
- A number of stakeholders have been working with the curves and it appears that one of the components that are needed to be able to use the curves is a calculation of "runoff storage". Part of the guidance should address calculation of the "runoff storage" component is for each BMP type. *Staff will get with stakeholders to discuss this concern.*

ACTION ITEM: Staff will work with concerned stakeholders regarding the need for guidance regarding the calculation of "runoff storage" components for each of the approved BMPs.

- The use of filter strips and the credits available were briefly discussed. *The reality is that there will need to be a great deal of "best professional judgment" involved.*
- How are MS4 permittees to get information and use information on what private businesses are doing? How are localities to get credit for activities that individual homeowners are doing? Is the state going to do anything to assist in this area? *The issues of concern here is that of verification and documentation of the practices. If you take credit for a practice you have to be able to verify that the practice continues to operate and function.*
- Are there any programs to encourage the use of retrofits for parking areas? *Different localities have different approaches to the use and encourage of these types of programs – there is no organized approach for encouraging these types of activities at the local level. It is discussed in the Stormwater Handbook that will be placed on the website. There is a chapter on siting which encourages localities to promote these activities.*
- Are there any programs to encourage the retrofit of existing developments? This is a critical component that will need to be considered as we continue these discussions. Maybe there is a possibility for the use of a "tax credit".
- The focus seems to be on retrofits – what about nonstructural measures? What about educational outreach efforts? *There are Bay approved efficiencies for things that are not retrofits – but a list of these options and alternatives will be included in the guidance.*
- We need to encourage the public/private partnerships that are needed to support these efforts.
- *There is a new incentive program for a Stormwater BMP Fund (\$35 Million).*
- *Please make sure that you sign up under the DEQ portion of the Town Hall sign for notices for stormwater related regulations and actions since those areas are not being implemented by DEQ rather than DCR – your previous requests under the auspices of DCR do not automatically transfer with the transfer of administration of the program.*
- A lot of the items included in this guidance document are not in the regulations – it appears that there are a number of things that are being required of the permittee in the guidance that are not required in the regulation. This is becoming a "default" regulation or an addendum to the regulation – that is not right. This guidance requires more than is required in the permit regulation. *Disagree with that assessment. What people wanted to see is a lot of what is being put in this guidance document – everyone wanted more information on what was needed in order to comply with the permit requirements. They wanted flexibility and therefore wanted the materials included in guidance. They all wanted more information. This is a specification of what is required to be able to have an approval plan.*
- As we go through the guidance document, we need to be clear if there is a requirement included in the guidance that is not included in the regulation than we need identify it and discuss. We need to identify those pieces of the guidance document that are imposing new requirements, if there are any. Need to identify anything new that is being "required" in the guidance. *If we are going to be providing a list of things that are required for permit compliance and telling someone that they failed to include a specific item then we are pushing the boundaries of what is guidance and what is regulation, however if we are providing the permittee with a pattern of*

items that are needed for permit compliance, a list of things that we expect to see, then it falls into the category of guidance. Here are the types of things that we are looking for and if you include something different then we will evaluate it on a case-by-case basis. Language related to this flexibility needs to be included in the guidance.

7. Lunch Break – 11:30 till 12:35

8. Overview and Discussion of Draft Guidance - Introduction; Calculating Required Reductions; Meeting Required Reductions (Kelsey Brooks/Ginny Snead/MS4 Stakeholder Advisory Group)

Kelsey Brooks, the primary author of the draft guidance document, provided an overview of the draft guidance document. It was noted when we go through the draft guidance document that members of the stakeholder group should identify any areas where they feel something is being asked for or required that is not currently being required in the language of the regulation in order to comply with the requirements of the permit. Ginny Snead asked for folks that have specific comments that they should feel free to contribute when the material is being discussed but they are also encouraged to provide written comments. The request was also made to those that had concerns or comments about language or the way that something is worded in the guidance document that they should provide specific recommendations as to what needs to be changed and specific language on what it should say so that the comments can be used constructively.

Kelsey Brooks provided a brief overview of the "Guidance for the Chesapeake Bay TMDL Action Plans" document that had been distributed to the advisory group prior to today's meeting. Following a summary of the components of the draft guidance document the group went back through the guidance a section at a time to flesh out any specific concerns or issues.

Discussions by the Stakeholder Advisory Group included the following:

- Has the department considered providing more specific guidance on the "determination of what a service area is"? In particular regarding the inclusion of smaller permitted entities or other permitted entities within that "service area".

ACTION ITEM: Staff will discuss the possible inclusion of specific additional guidance regarding the determination of "service area".

- What is meant by the term "beyond urban nutrient management reductions for pervious regulated acreage"? Would this include "private lands"? *The original thought and the way the WIP was written was that nutrient management reductions were not considered as part of the credit calculations.*
- Regarding the "size and extent of their MS4 system", will there be any guidance coming out from DEQ regarding that determination and at what scale or level of accuracy that should be determined? Would this be a case-by-case determination?

ACTION ITEM: Staff will look at adding additional information and on how we are expecting

want it to be defined.

- Some stakeholders have looked at the determination of a MS4 outfall and at this time it appears that there are at least 3 components that would need to be considered. These would be how you define a MS4 outfall; how do you determine direct drainage (Does it go through the MS4 outfall?); how you would deduct other outfalls – need to figure out how to look at this consistently. Some guidance is needed to address.
- Additional guidance is also needed on the expansion of a MS4 and how that needs to be addressed in this process. How do we deal with that expanded area in this permit cycle?
- How do we synthesize planning for action plans for a locality that also has VDOT facilities and operations in the area? *The short answer is to subtract the area out of the localities discharge area calculations. The important thing is to ensure that the area is included in someone's calculations and not left off because someone thought someone else was covering it. It will need to be addressed.*
- Part I II – Items 2 and 3: Current land use really doesn't play a role at this stage because you are talking about calculating required reductions, but what is required is "acreage of pervious and impervious as of June 30, 2009. You don't need current land use there. The key is pervious and impervious acres as of June 30, 2009. This same terminology comes back up on the next page of the guidance document.

ACTION ITEM: Staff will look at the terminology used relative to "current land use" and "pervious and impervious acreage as of June 30, 2009" and make sure that it is used consistently in the guidance document.

- Some kind of generic language needs to be added to explain that this is guidance and if the permittee comes up with a different and better way to address a requirement of the regulations that DEQ will evaluate it and consider it on a case-by-case basis.

ACTION ITEM: Staff will look at the language of the standard disclaimer that is used on other DEQ guidance documents for inclusion in this guidance.

- Will DEQ be including any guidance regarding different types of grasses (such as used on golf courses) and the calculation of pervious and impervious areas? *At this time we are not planning in getting into those specifics. It was noted that the Runoff Reduction Methodology Spreadsheet calculations do include considerations of different grass types and what we mean by managed turf.*
- In the guidance document at: "Size and Extent of the MS4 system - Local jurisdictions need to account for the storm drain system they own and operate. Title 40 of the Code of Federal Regulations (CFR), 122.26 (b) (8) defines a municipal separate storm sewer system as “a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by a State, city, town, borough, county, parish, district, association, or other public body.” **The storm drain system within a jurisdiction’s boundary is typically a mix of**

ownership, which includes parts of local, State, and federal systems. How a locality accounts for these various entities when defining what it “owns or operates” is important. Any stormwater discharge that passes through a county or municipal storm drain system or appurtenance becomes, at the very least, the shared responsibility of that locality." There should also be a reference to "privately owned systems" so that those components can be considered.

- Within that same paragraph there is a reference to "the shared responsibility of that locality". "Any stormwater discharge that passes through a county or municipal storm drain system or appurtenance becomes, at the very least, the shared responsibility of that locality." Is it DEQ's policy that a homeowners association's lands that discharge through the MS4 that land becomes the responsibility of the reduction of that locality? *Yes, it is considered part of the system and part of what drains through the MS4.* This is clarified in the definition of "outfall" that is included in the regulations.
- The phrase in this section "at the very least, the shared responsibility of that locality" has the potential for a lot of ambiguity. The question of who is responsible for which drainage where we have a mix of ownership requires some real clear decisions. This needs to be clearer. A different way to describe and explain this is needed. Why is the phrase "at the very least" even included here? There is a concern about how this is handled and defined. The language needs to be crystal clear.
- Regarding the section on "pervious and impervious surface", the question is what is an acceptable level of accuracy for the determination of the number of pervious and impervious and total acres served by a MS4? Depending on the system used to determine these figures the level of accuracy may vary. What is an acceptable level of accuracy knowing that that level will vary? This is likely to be determined by the "best available information" not necessarily by the level of accuracy. In some localities certain items or types of structures, i.e., sheds and patios, were not included in the calculations. There needs to be transparency in what and how these figures are determined and what was and was not included.
- There needs to be a discussion on what the level of accuracy is, known or unknown. We need to be consistent in how these figures are calculated and determined. Need to be clear about how these figures are tracked. Are we talking about a remapping exercise to determine changes in pervious versus impervious areas? Or are we talking about only tracking regulated impervious cover? What do we do with the unregulated areas?
- Are there industry standards that address land use as it relates to pervious and impervious areas?
- It was suggested that the phrase "based on the best available information" needs to be included in the first sentence of the "pervious and impervious surface" section.
- Tracking of changes in a localities pervious and impervious acreage is an important part of the continuing reporting requirements. Some localities are addressing this requirement by having their locality flown every few years at a known resolution so that their figures can be periodically updated. This approach allows for the reporting of regulated activities every year with periodic updates every few years on the unregulated activities, this may be every three or four years.

- The question is should a locality be on the hook for reporting those unregulated acreages when they are not a regulated activity? Is a locality responsible for the loads created by these unregulated activities? It is a responsibility of the locality through their zoning and planning requirements.
- We need to stick with what is legally required by the stormwater management regulations. The reductions that localities are responsible for meeting are the result of the 2009 Progress Load. Need to concentrate on what is "legally required".
- The reduction requirement for this permit cycle is fixed by the 2009 data.
- The MS4 permit establishes the regulated area as anything over 1 acre of disturbed area. The resolution ends up being 1 acre. The baseline is the 2009 data for this permit cycle.
- In the section "Current Land Use" the second sentence reads: "Local governments should use the best land use data that are available..." What is meant by "best"? If a county doesn't have county specific land cover data, what does DEQ expect them to use? If there is no local information what is the "best" information that should be used? *The "best" information is just that, it is the "best" information that is available to the locality. Do the best you can with the data that you have.*
- The requirement is for the best available information as of a certain date. What if a locality has data but not as of specific date? *That is why the guidance is written to request the "best land use data that is available to the locality". Use the "best" available.*
- If a locality has data but it is not as of the June 30, 2009 date, then can the locality use that available data and extrapolate or estimate from there to meet the requirements? *Yes.*
- The first sentence in the "pervious and impervious surface" section reads "The locality must determine the number..." Suggest using the term "estimate" instead of "determine".
- In regard to the section III. Meeting Required Reductions: At some point in the process we will get translated into "EPA Apples" from "Virginia Oranges". *There is flexibility built into the process to allow for the use of either of the methods. Staff has been working on a "crosswalk table" to better link the various methodologies but that document is not at the stage to incorporate into the document. There are a lot of things that don't compare that readily.*
- The suggestion was made to strike the last sentence in (1) of this section: "...The performance curves discussed in (2) should not be used for these BMPs." That pretty much indicates that you don't use those.
- There is a need for some clarifying language at a couple of points in this section that would improve the document. It is either one method or the other you can't mix the two.

ACTION ITEM: Staff will work on clarifying the language of this section (III. MEETING REQUIRED REDUCTIONS). Need to refine and clarify the requirements. There is a need for clarification.

- It was clear in this morning's presentations that for new developments you would use the BMP Clearinghouse while for retrofits you would use the "curves". This document needs to be laid

out and revised to more clearly reflect the information that was provided in this morning's presentations.

- The need to use a loading rate appropriate for a specific basin that your permit is tied to needs to be clarified. It needs to be clear as to which loading rates and efficiencies should be used.
- There needs to be two runoff reduction methodology spreadsheets - one to use for new development and one for tabulating your TMDLs. Maybe it even needs to have a separate title and a function where you can change the loading rates.
- Didn't the DCR request the Bay program to develop something to address that? *There were a number of efforts that funding was requested for that didn't get approved for funding. There were hours that were unspent by the EPA contractor that DCR requested be used for additional work efforts to enhance and upgrade VAST that were not approved.*
- Do the BMPs proposed have to be on the Virginia Stormwater BMP Clearinghouse or can other BMPs be proposed? The second sentence of this section: "In order to receive credit, the BMPs employed must be approved by the Bay Program". Can other BMPs be proposed? *Other BMPs can be proposed in the action plan. This guidance is trying to clarify what we are expecting to see included in the action plans and what we are saying is approvable. Any other BMPs that are proposed will be evaluated on a case-by-case basis. In regard to the Chesapeake Bay TMDL, for a BMP to be creditable to the Bay Program EPA is going to want to see that they are approvable BMPs.*
- It was suggested that the second sentence of this section: "In order to receive credit, the BMPs employed must be approved by the Bay Program" be revised to include the phrase "or the permittee will have to provide documentation on how it meets the requirements".
- As it stands right now the state can use non-approved (interim) BMPs for milestones, but you can't use them for progress tracking or reporting. This is a gray area that needs to be clarified.

ACTION ITEM: Staff will evaluate and clarify the language related to "interim" BMPs and "other" BMPs that are proposed regarding approval by DEQ as well as EPA.

- On a related point: The permit cycle has begun but all of the credits have not been established, some are in process. Can there be some clarification as to what the default or backup plan is if all credits have not been established?

ACTION ITEM: Staff will try to provide additional language in the guidance to clarify that this guidance is associated with a snapshot in time based on the current permit.

- In regard to non-proprietary BMPs, i.e., storm filters, now you use the curves to determine your efficiencies, once that practice is approved by the Clearinghouse will the efficiency change from what is listed in the "curves"? *What we are trying to do is to provide options. We are trying to provide flexibility to the permittee. The permittee can use either what is listed in the clearinghouse or what is identified in the Bay Program approved "curves".*
- If a permittee is using a practice that hasn't been approved in their planning efforts that has an identified interim efficiency and then more information becomes available and that practice is

approved with a different efficiency. Will the permittee need to revise their action plans to account for that change? What happens if the efficiencies go down? *The planning document would need to be updated to account for the revised efficiencies of the practices that are used. Future permit cycles would need to account for any changes in the future. The main focus for this planning cycle is the implementation of the 5% requirement. There will need to be flexibility in dealing with these types of changes (changes in efficiencies) that occur during a permit cycle. We need to have the flexibility to account for the change and incorporate it into a future planning/permit cycle.*

- If an action plan meets the 5% with the efficiencies that are known and approved at the beginning of the permit cycle, but the efficiencies change such that the plan only achieves a rate of 3%, how will that be addressed? Will the action plan for the next permit cycle have to be adjusted to make up for that loss of 2% so that it is adjusted to increase the required rate in the next cycle? *We have to deal with the state of the science as it is when the action plans are developed for this permit cycle, but we need to have the flexibility to make revisions to the plan to account for any changes in the science, i.e., any revisions to efficiencies, in the next planning and permit cycle. Need the flexibility to make adjustments to future planning/permitting cycles.*
- Does nutrient trading fit into this process? *Yes, it does. It is mentioned in the special conditions.*
- It was suggested that the use of "nutrient trading" as a way to meet the required reductions should be added to the guidance document. Maybe add a number 5 to the list of ways to meet the reduction.

ACTION ITEM: Staff will include language in the guidance document related to the use of "nutrient trading".

- In the section on "Land Use Change BMPs" it states that "There are three types of land use change BMPs that may be credited through the CBP". The list includes: impervious urban surface reduction; grass buffers and tree planting. In going through the references that are listed there are a number of other "land use change BMPs" that are identified, such as: forest conservation, urban growth reduction, abandoned mine reclamation, etc. It was suggested that the language be revised to indicate that there are other practices in addition to the three that are listed that may be credited through the CBP.
- The practices (BMPs) that were not included in the list of land-use change BMPs were primarily forest-related BMPs and in a model-world you are keeping forest as forest with these changes so technically there is no change in land use. Abandoned mine reclamation falls into the same category of essential having no real change in land-use to credit.
- A question was raised on whether "urban growth reduction" was a BMP that could even be reported under the Bay program in Virginia. It is a BMP that is included in the Maryland's or Pennsylvania's program but Virginia can't technically report that kind of activity towards credit under the Bay Program.

- The current language is very specific. There may be other land-use change BMPs that are developed over the next three or four years that may be approved by the Bay Program. The language needs to be tweaked to allow for other BMPs that may be approved in the future.

ACTION ITEM: Staff will look at the lists of land-use change BMPs that may be credited through the CBP that are identified in the references and consider developing language to allow the inclusion and consideration of additional BMPs.

- What about other things similar to "nutrient management" that are required (i.e., the WIP assumes that this is taking place) but the permittee does not get credit for, such as SWIP. If practices are being required by the permit, the assumption is that they have a stormwater benefit so why shouldn't they be eligible for credit? The more robust of these requirements, such as changing field practices, do have stormwater/pollution prevention benefits, so consideration should be given to allowing for credits for these practices. *There are a number of things that are being considered under the Bay Program for credits. There are some things that are required in the permit that are not going above and beyond the requirements such as erosion and sediment control and stormwater post-construction activities that are not eligible for credits.*
- Can localities that have more stringent local ordinances and requirements get credit for these more robust activities? *Yes, the Special Condition addresses this area and specifies in the permit as to how you can claim credits for these activities. This language is in the Phase 2 permit. This specifically addresses post-construction and is a water quality criterion and is not associated with erosion and sediment control.*
- How would a locality get credit for more robust erosion and sediment control requirements? *An expert panel is currently looking at this issue and to see how this will be handled in the future.*

ACTION ITEM: Staff will look at developing more definitive language in the guidance to address additional practices that may be eligible for credit and what is required to get those credits.

- In regard to the urban stream restoration practices and the monitoring that is required: For monitoring in general, there are proposed BMPs such as wetland harvesting or phragmite harvesting where you can test and gauge the amount of nutrient being removed by the sample or if you dredge something, or there is street sweeping and you can look at what is being picked up you could do samples related to sediment, nutrients, heavy metals, etc. what are the agency's thoughts related to those types of practices and the use of those types of practices? *Those are all good examples of different types of BMPs being considered at different levels within the Bay Program. There are technical committees looking at those types of activities.*
- If the permittee can measure something directly then are they able to get credit for it? *It gets complicated because you have to look at where that benefit is achieved in the water column and what actually is the reduction?*

- The Clearinghouse was designed to look at constantly enhancing BMP designs and incorporating those enhanced designs and efficiencies into future iterations of the Clearinghouse.
- *It is important to be aware of the tension that exists between the Clearinghouse considering additional public domain BMP designs and those companies that are developing structural and manufactured components which have high testing costs involved to get approval.*
- *A lot of BMPs and efficiencies that have been considered and defined by expert panels in the past are being reconsidered, so it is an iterative process with constant review and changes. The goal of this guidance is to realistically capture those things we have a high confidence in and know that we will be able to accept and provide guidelines for complying with the current permit requirements.*
- This guidance is for 2013-2018. Is the intent to consider only those things that in effect now or those things that will be or may be in effect when the locality actually develops their action plan? *That is a good point - we have not had the discussions that are needed to determine what our intent is regarding to this guidance regarding this possible lag time between the issuance of the guidance and the actual development of a locality's action plan.*

ACTION ITEM: Staff will make a determination on how the guidance is going to address the potential lag time between the issuance of the guidance and the actual development of the local action plans.

- If there are other structural BMPs in addition to those that are included on the list in the guidance document that are approved by the Bay Program, they should also be eligible for credit. There needs to be some catch all language included in the guidance regarding any future BMPs that are approved by the Bay Program.

ACTION ITEM: Staff will develop a catch-all section or language to clarify that those additional BMPs that are approved by the Bay Program, but may not be listed in the BMP lists in the guidance document will be eligible for credit under the program.

9. BREAK 1:45 - 1:55

10. Overview and Discussion of Draft Guidance - Reporting BMPs (Kelsey Brooks/Ginny Snead/MS4 Stakeholder Advisory Group)

The group continued the discussions on the draft guidance document, picking up after the break at Section IV entitled "Reporting BMPs". The text for this portion of the guidance document reads as follows:

IV. REPORTING BMPs

Permittees will report all relevant BMP information and data in an electronic format provided by the Department. For all BMPs that are employed to meet the permit requirements, the permittee will need to report the following information:

1. Location in latitude and longitude
2. 12-digit Hydrological Unit Code (HUC)¹
3. Federal Information Processing Standard (FIPS) Code²
4. Impervious Acres and Total Acres Treated
5. Date of completion

The remaining reporting requirements will vary based on the BMPs selected (Table 4)

Historical Data

The Department strongly encourages each permittee to supplement its Action Plan with the locality's historical BMP data in an electronic format that will be provided by the Department.³ While municipalities will not receive credit for BMPs installed prior to 2009, a more accurate accounting of the permittee's historical BMPs may allow the Bay Program to refine its Waste Load Allocations for Virginia in the next phase of the Bay Program Model. This may have a direct impact on the permittee's pollutant reduction requirements in subsequent permits.

Discussions by the Stakeholder Advisory Group included the following:

- *The "electronic format provided by the Department" that is referenced in this section is still under development.*
- The document seems to continue to change and ask for additional information to be collected to meet the permit requirements. The Department needs to keep in mind that all of these databases that have been designed to collect this information cost a lot of money and everything a component is changed or a new information requirement is added that the database/information system needs to be revised which continues to add to the cost of the effort. *We would like to see more specific suggestions as to what you as a permittee would like changed to minimize these cost fluctuations. Specific comments related to these items are needed.*
- For example: Currently a locality tracks a 6 order HUC codes which is a two number/two letter combination, what is a 12-digit HUC Code? *This is actually the same thing - this is spelled out more specifically in the permit.*
- For example: A locality is currently only tracking the "Total Acres Treated" not the "Impervious Acres" as included in the 5 reporting requirements listed in this section of the guidance.
- It appears that there are a few things missing here: If a BMP is employed as part of a train-treatment, that is important to know; how are we to keep track that? If a BMP is put downstream that has a reduction associated with it, how do we keep track of it? The reduction should be spelled out in pounds so that we all know what we are doing.

¹ If the HUC is unknown, it can be determined here: <http://dswcapps.dcr.virginia.gov/htdocs/maps/HUExplorer.htm>

² The FIPS codes for Virginia can be found on the following webpage: <http://www.itl.nist.gov/fipspubs/co-codes/va.txt>

³ In development

- A BMP operates differently when it is employed as part of a treatment-train than when it is used as a stand-alone BMP. How do we track and take that into consideration?
- What is the need for the FIPS Code? *It is one of the standard information components that are required as part of the National Environmental Information Exchange Network (NEIEN). If we have the location in latitude and longitude then we don't need the Hydrologic Unit Code or the FIPS Code. If we don't have the latitude and longitude and the Hydrologic Unit Code, we need to have the FIPS Code.* That needs to be spelled out in the guidance.

ACTION ITEM: Staff will revise the wording of this section to indicate the rational for the requirements for specific pieces of information and if certain items are not included then what other items are needed and why.

- Should the requirement to have the "impervious acres and total acres treated" as part of the reporting requirements also require information on "pervious acres"?

ACTION ITEM: Staff will look at the rational and requirement behind requiring only the "impervious acres and total acres treated" and whether information on "pervious acres" should also be added.

- The permit requires the reporting of all three - "impervious"; "pervious"; and "total acres treated".
- What about the requiring the date of the last inspection as part of the information requirements? *Since it is part of the permit cycle - this would be once every 5 years. This is specifically related reporting for "retrofits" so an inspection date would be irrelevant information.*
- *What we are trying to track is verification of the reductions that are required through the redevelopment effort not what you are doing through the VSMP program.*

ACTION ITEM: Staff will look at "regulated redevelopment" and "retrofits" and possible credits that are available and how they will be addressed in the guidance.

- This section is entitled "Reporting BMPs", but this whole document is towards the development of an action plan. You can't do an inspection date because you are you talking about a plan. *Can't have a reporting date if you are talking about a plan. You can have a date for a BMP that has already been completed.* In "date of completion", the action plan could list some BMPs that have been done and some that have not been completed.
- You can only report BMPs for credit after they have been built. *The action plan could and needs to include how you are going to get to your 5%. Need to be able to phase out the permit requirements at the end of the permit cycle; you need to show how you are going to meet all of the required reductions. The action plan would include planning for specific BMPs that may not be immediately implemented. Information is needed as to how the permittee plans to meet the 5% and as part of the permit reissuance the permittee needs to show how they are going to meet the entire reduction required.*

ACTION ITEM: Staff needs to flesh out the language related to the two different things that we are requiring for permit compliance.

- *The Special Condition for the Chesapeake Bay states that you can take credit for BMPs that were implemented after June 30, 2009.*
- *How will the request for information on "impervious and total acres treated" be handled in a situation when part of the hard surface is VDOT right-of-way? This goes back to an earlier discussion and the need to better define what we mean by "surface area".*

ACTION ITEM: Staff will look at the concept of "surface area" and clarify what is meant by and required by the use of that term in the guidance document.

- *The section under "Reporting BMPs" related to "Historical Data" states that: "While municipalities will not receive credit for BMPs installed prior to 2009, a more accurate accounting of the permittee's historical BMPs may allow the Bay Program to refine its Waste Load Allocations for Virginia in the next phase of the Bay Program Model. This may have a direct impact on the permittee's pollutant reduction requirements in subsequent permits." What is the impact of this statement and the referenced process? A database is being developed that incorporates those pre-2009 BMPs that could upon reexamination change the loading rates and a locality's reduction requirements in future permit cycles. It will ultimately be EPA's decision on whether to reopen the existing TMDLs and have a new allocation. It could result in showing that some localities and jurisdictions are getting more credit under the current program than is justified with these revised data. This is a request for updated historical data from jurisdictions so that we can update our records.*
- *If all the localities actually supply new historical data, how will that be used? The idea would be to pull the previously "estimated data entries" and replace that data with information on what was actually implemented during that time period.*
- *There is a struggle with understanding as to how all of this new data; new calibrations; new historical data will all fit together given probably different level so resolution and detail. This is a valid question/concern since we don't know what the new model is going to look like. Really need to focus on what is there now.*
- *As time goes on the effort is to improve the precision of the data that is presented and evaluated in the process.*
- *Is it possible to get an explanation of how data is handled; what is the process; this is what happens with the data that is submitted? This is potentially a lot of work. It is hoped that having more data helps improve the precision and hopefully the accuracy of the efforts. We would like to get a better handle on the historical data.*

ACTION ITEM: Staff will develop information on "how data is handled?" "What is the process for handling data?" This information will be presented to the advisory group.

- *In Table 4 under "additional reporting element" for "permeable pavement" it asks for "area in acres of reduced impervious surface" instead of "area in acres treated"? Staff is currently*

looking at this and the information included in the table may look a whole lot different in the next iteration.

- In Table 4 the "additional reporting element" for Number 17 - Forest Buffers and Number 18 - Grass Buffers needs to be flipped.

ACTION ITEM: Staff will revise Table 4 to incorporate the requested changes and flesh out the table to consider those items that are already being requested in Part IV of the guidance document and present in a new iteration at the next meeting.

11. Overview and Discussion of Draft Guidance - PART II - ACTION PLAN FORMAT & REQUIREMENTS (Kelsey Brooks/Ginny Snead/MS4 Stakeholder Advisory Group)

The group continued the discussions on the draft guidance document, looking at the actual format being considered for the action plans and the specific information requirements included in those plans. These are all sections that are in the permit - they are all parts of the "special conditions".

Discussions by the Stakeholder Advisory Group included the following:

- Would the description of current MS4 program requirement be the same information that is used for a localities current plan? *Yes - the current description can be used.*
- There is confusion over where these sections are related to the special conditions. It was suggested that the special conditions need to be attached to this document and referenced to make it easier to follow.

ACTION ITEM: Staff will provide a crosswalk reference to tie the guidance document requirements with where they are found in the General Permit and Special Conditions.

- There is some confusion as to what is meant by "New Sources"?

ACTION ITEM: Staff will clarify the language in the guidance to clarify what is meant by "New Sources". Staff will need to read back through the language of the "Special Conditions" to clarify what actually is needed and what are the regulatory requirements related to "new sources". Will review exactly what the regulation says and what the special conditions require.

- There is a lot of overlap in these sections that needs to be clarified. It should be clear where these requirements come from in the regulations and special condition.
- The "Means and Methods to Address Discharges from New Sources" section on page 9 contains a statement referring to "do not cause a net increase". There is some confusion as to where that language came from and whether that is actually included in the permit language.
- Page 9 - Compliance Checklist section - Revise to read: "...This also includes information on how the MS4 was delineated.
- The permit references "annual benchmarks". *This is a part of the schedule - could be made clearer.*

- Page 9: The text of the guidance includes the word "must" in the statement: "This section will...enumerate the elements that must be included to ensure permit compliance..." There appear to be a number of items that are included in those items that are "required for compliance" that don't appear to be in the regulations or in the Chesapeake Bay Action Plans. *These requirements were taken directly from the Chesapeake Bay Action Plan.*
- There is some confusion about the use of Table 5 - *This table was lifted from the WIP.* The suggestion was made to eliminate this table from the guidance since it was developed for a entirelyly different purpose.

ACTION ITEM: Staff will remove Table 5 from the guidance document and develop language to summarize and clarify what is required relative to the "means and methods needed to meet the required reductions and schedule".

- Should there be a section describing what the action plan is trying to accomplish?

ACTION ITEM: Staff will take another look at development of a summary table or summary language for inclusion in the guidance.

- There are a number of instances of the use of the term "will" in the compliance checklist sections - the suggestion was made that softer language might be better - sometimes things get shifted around in priorities and funding and may not occur when originally planned. *When we reexamine this document we will look at this and clarify that this is "guidance". Guidance should use the term "may" instead of "will", except when it is a specific requirement of the permit.*

ACTION ITEM: Staff will try to make it clear as to how each part of the guidance document ties back to the regulations and special conditions. Specific language and references will be added to clarify the guidance document.

- There was some confusion over the grandfathered projects requirements. *This will be clarified with specific references and linkages back to the regulations.*
- How would a list of grandfathered projects be developed for future grandfathered projects? It was suggested that this is being required at the wrong time and should be a Year 4 or a Year 5 requirement. *The requirements in the regulations will be examined to see what is actually required.*

ACTION ITEM: Staff will examine the requirements for grandfathered projects in the regulations and further define the requirement in the guidance.

- There was some confusion over the use of bold text in the guidance. *All of the bolded sections (text) are individual components of the permit compliance requirements. This will become clearer when the linkages back to the regulation are incorporated in the guidance document.*

12. Comments from Committee Members (Ginny Snead):

We have received a number of comments from members of the Stakeholder Group that were not received in time to incorporate into the draft guidance reviewed by the group today. We will take a closer look at those recommendations and comments and any others that are received from the group for incorporation into a revised guidance document for consideration at the next meeting of the Stakeholder Advisory Group.

Comments are requested as soon as possible from the stakeholders but no later than Friday, August 30th. Please submit your comments to via email to Ginny Snead and Bill Norris so that they may be considered. All of the comments provided today will be considered as staff goes back through the guidance document. We encourage the submittal of written comments so that your recommendations can be accurately reflected and considered.

Additional questions that were raised included:

- What will be the process from this point?
- Will "letters of approval" be sent once a plan is submitted?
- What are the standards for review of these submittals?
- Can adjustments be made to the annual reports?
- What is the schedule for review of these submittals?

13. Public Comments:

No public comments were offered.

14. Adjournment:

Ginny Snead thanked all of those in attendance for their time and participation. She adjourned the meeting at 3:23 P.M.