

Virginia Stormwater Best Management Practice (BMP) Clearinghouse Committee Meeting
Henrico Training Center
7701 E. Parham Road, Henrico, VA 23294
January 28, 2015

Meeting minutes by Jane Walker

Committee Members Present

Danielle Bishop, City of Roanoke
Fred Cunningham, Virginia Department of Environmental Quality (DEQ), Committee Chair
Chuck Dietz, Virginia Tech
Normand Goulet, Northern Virginia Regional Commission
Charlene Harper, Stewart/HG Engineering
Greg Johnson, City of Virginia Beach
Roy Mills, Virginia Department of Transportation (VDOT)
Brian Stokes, Campbell County

Agency Staff Present

Robert Cooper, DEQ-Central Office
Drew Hammond, DEQ-Central Office
Melanie Davenport, DEQ-Central Office

Contracted Administrative Personnel Present

Jane Walker, Virginia Water Resources Research Center (VWRRC)

Others Present

Willie Clark, OldCastle
Aimee Connerton, Rinker Materials
Scott Crafton, Louis Berger
Ann-Germaine Danz, Virginia Ready-Mixed Concrete Association
Chris French, Contech
Richard Jacobs, Virginia Association of Soil and Water Conservation Districts (VASWCD,
alternate for Mary Johnson) / Culpeper SWCD
Whitney Katchmark, Hampton Roads Planning District Commission (HRPDC, alternate for
Jenny Tribo)
Chris Kuhn, Stantec
Chuck Lacey, ADS
Lisa Lemont, Hydro International
John Lockett, Titan America
Mark Miller, AquaShield
Hessam Nabavi, Virginia Ready-Mixed Concrete Association
Brian Rustia, ADS/Baysaver
Sean Simonpietri, Exact Stormwater Management
Terry Siviter, Rotondo Environmental Solutions
Ginny Snead, Louis Berger
Steve Sunderman, Terrazia PC

Call to Order

Fred Cunningham of DEQ called the meeting to order and reviewed the meeting agenda. Everyone introduced herself or himself. Jane Walker of the VWRRC asked everyone to sign in to record the attendance. Mr. Cunningham requested that the draft meeting minutes from the October 29, 2014 meeting be distributed for review to be finalized.

Update: DEQ Stormwater Program

Construction General Permit: Drew Hammond with DEQ stated the agency has reissued 2014 Construction General Permit coverage to approximately 4,300 construction activity operators since July 1, 2014. He stressed that the last date to submit for reissuance is February 27, 2015; after that date, applicants will need to file a new permit application with the appropriate Virginia Stormwater Management Program (VSMP) authority where the land-disturbing activity occurs. Reissuance applications are to be submitted to DEQ's Stormwater Management Program through the agency's Construction General Permit website (<http://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/ConstructionGeneralPermit.aspx>). Mr. Hammond offered that there are 100 or so pending applications, citing that a signed registration statement and payment in full must be received in order for DEQ to process the application. He further explained that approved reissuances are posted on the Construction General Permit website, and postings are updated weekly. If the project is not listed on the website, it is not been reissued. Mr. Cunningham summarized that approximately 3,800 permits were reissued prior to October 10, 2014, and 500 permits have been processed since then for a total of 4,300 permit reissuances thus far.

Payment to Localities: Mr. Hammond stated that 57 VSMP authorizes have been reimbursed by DEQ for a total of approximately \$4.3 million for the local VSMP portion of fees from the approximately 3,800 general construction general permits issued on or before October 10, 2014. DEQ is in the process of reimbursing seven more VSMP authorities. Mr. Hammond offered that there are 92 VSMP authorities in the Commonwealth. Ten VSMP authorities did not have any permits, and DEQ has contacted the remaining 82 authorities. Of the 82 VSMP authorities, 64 have thus far received reimbursements. The second round of permit reissuance verification and reimbursement will cover the period between October 10, 2014 and February 27, 2015.

Plan Reviews: DEQ serves as the VSMP authority for some localities and for state and federal projects. In its role as a VSMP authority, DEQ has received 133 stormwater management (SWM) and erosion and sediment control (ESC) plans for review. The agency has completed 35 ESC plans to date. The agency has commented on about 100 plans and is primarily waiting for replies to their comments.

Municipal Separate Storm Sewer System (MS4) Permits: MS4 permits have been issued for Chesterfield and Prince William counties. EPA has signed off on draft permits for reissuance of the Fairfax County MS4 and Henrico County MS4, and the public may comment on these draft permits (during the period beginning February 2, 2015 and ending March 4, 2015). DEQ plans to finish the Phase I MS4s and then begin working on the VDOT permit.

Virginia General Assembly: Ms. Davenport reported that no major stormwater management bills have been proposed by the General Assembly this year, however, several studies related to stormwater management have been proposed by members of the General Assembly. For example, one resolution deals with high water tables and another concerns stormwater management in tidal areas. More information about the studies will be forthcoming depending on the decisions made by the General Assembly.

Stakeholder Group: Recognizing the incomplete integration of the VSMP, ESC Program, and the Chesapeake Bay Act, DEQ's director, David Paylor, initiated the development of a stakeholder group to propose adjustments to the programs to streamline their statutes and make the regulations clearer. DEQ's Elizabeth Andrews is coordinating the group, and Mark Rubin of Virginia Commonwealth University may be able to serve as a facilitator for the group.

A committee member asked if the policy review stakeholder group would be looking into the stream channel protection criteria applicability to tidal waters. DEQ staff explained that the group will not be reviewing technical criteria. Its purpose is strictly to review policies. An observer commented that Maryland does not apply certain regulations to tidal areas. Mr. Hammond noted that such a change in Virginia would need to go through the regulatory process. He added that DEQ does not have the resources at this time to look at the specific topic of energy balance for stream channel protection.

Guidance on Linear Projects: A committee member asked if DEQ had completed guidance for linear projects. Mr. Cunningham offered that DEQ is still working on the document and offered that the agency is willing to help provide guidance for specific projects.

Final Guidance Regarding Stormwater Manufactured Treatment Devices (MTDs)

Robert Cooper offered that DEQ staff sees four options for developing a final guidance regarding MTDs: 1) wait until a national assessment protocol is developed, 2) wait for the Chesapeake Bay Program (Bay Program) to develop an assessment protocol, 3) DEQ develop an assessment protocol, or 4) keep the interim guidance in place longer than originally planned. An individual suggested that another option is to update the interim guidance. An observer asked if the stakeholder group being formed to look at program integration might be able to encompass clarity on MTDs as part of its efforts. DEQ staff responded that from their perspective, the stakeholder group would focus on broader issues and would not get into specifics that would be needed to evaluate MTDs.

Mr. Cunningham stated the two main comments thus far received by DEQ focus on sizing of MTDs and elimination of the cap on the TP removal credit (20% for hydrodynamic devices and 50% for filters). Mr. Cunningham stated that DEQ does not have information that would give them confidence to allow higher values for TP removal credits. An observer speculated that if DEQ removes the cap, it will remove competition because only the MTDs with the highest removal efficiencies will do well in the market place.

Mr. Cunningham asked if the interim guidance had allowed a path forward for the use of more MTDs in Virginia. The representatives of MTD manufacturers indicated that the document has met this goal.

DEQ agency personnel asked if it is better for DEQ to work with the Bay Program or go alone in developing an assessment protocol for MTDs. A committee member responded that it is up to the state. He added that the Bay Program is just getting started in developing a testing protocol. There is a Scientific and Technical Advisory Committee (STAC) workshop in March where all of the Bay states and EPA will get together. He hoped the process could be completed within one or two years. Mr. Cooper asked for clarification as to whether or not the Bay Program would be assigning efficiencies to individual devices; the committee member offered that the Bay Program is working to develop a testing protocol but will not assign efficiencies to individual MTDs. Ms. Davenport offered that in her opinion, the Bay Program is undertaking a great initiative, but also noted that it adds another level of uncertainty for Virginia. An individual stated he hopes there will be harmony between a national assessment protocol and the assessment protocol developed by the Bay Program.

Ms. Davenport explained that MTDs approved by DEQ are used to meet VSMP Part IIB and Part IIC of the water quality technical criteria. She noted that the removal credits are not used in the Chesapeake Bay model. All states in the Bay region are Bay Program partners, and as partners, they have a say regarding the “inputs” into the model. However, the Bay Program reports to EPA Region III, and EPA runs the model. Virginia will need to get its efficiency numbers approved by the Bay Program in order for them to be incorporated into the Bay model. A committee member noted that the Bay model is flexible enough to handle different credits from different states, but if all Bay states agree to the same process and credits, it is better for all.

An individual suggested that incorporating nitrogen removal credits into the guidance document would improve it. Others offered that the guidance is designed to meet Virginia’s VSMP regulations, which focus on phosphorus. Until the Chesapeake Bay total maximum daily load (TMDL), little interest has been shown for nitrogen removal. An individual further explained that Virginia’s regulations addresses phosphorus, in part, because regulating nitrogen is more difficult. Nitrogen changes forms, and there is not as much data about nitrogen removal. Others agreed that lots of MTDs test for TSS removal, but little nitrogen removal data has been presented.

A committee member asked if the Virginia Technology Assessment Protocol (VTAP) is dead. DEQ personnel offered that the regulatory time period would likely be more than two years so in their minds, it is not practical to use the VTAP-based regulatory approach. DEQ staff encouraged individuals to look at the VTAP and use it to make comments for improving the final guidance document.

Ms. Davenport expressed her personal opinion regarding the options: she does not see an advantage to Virginia developing its own protocol. She would not want the Commonwealth to compete with the efforts of the Bay Program. Thus, she would be comfortable using the interim guidance for a longer period while the Bay Program develops a region-wide assessment protocol.

Because she sees value in the input received at stakeholder meetings, Ms. Davenport expressed interest in holding future meetings where DEQ could ask questions and receive input.

Mr. Cunningham also expressed interest in receiving more input. He suggested that the agency does not have enough information to address sizing issues today and therefore proposed that DEQ get input from a smaller workgroup and then get input from the larger group. He prefers holding informal meetings to accomplish these tasks.

DEQ personnel requested that members of the committee and the interested public submit ideas for what they want to see in the final guidance. If DEQ decides to make changes to the interim guidance, it would likely want input from a smaller work group. Agency staff offered to have an internal meeting to make some decisions and would then let everyone know of the agency's plans on how to proceed.

Other Comments

Runoff Reduction Spreadsheet:

An individual asked if the latest version of the runoff reduction spreadsheet allows for treatment trains. Mr. Cooper offered that the 2.9 version to be released soon allows for credit to be taken for up to three MTDs. Users are able to manually add the reduction credit for each MTD. With this version of the spreadsheet, MTDs and non-proprietary BMPs can be used in combination to meet the reduction requirements. Mr. Hammond added that the instructions for how to use the spreadsheet need to be updated and put into guidance.

State Agency Requests:

A committee member who represents a state entity requested to be include in DEQ's email distribution list of local government representatives. As a state government employee, he does not represent a local VSMP authority, but his staff needs to be aware of the information being provided by DEQ. Another committee member added that only local governments, not state entities, are eligible for Stormwater Local Assistance Fund (SLAF) funding or BMP historical data cleanup funding, citing a situation where George Mason University wanted to apply for funding for an appropriate project but was ineligible. DEQ personnel offered to look into these two situations brought to their attention.

Role of Stormwater BMP Clearinghouse Committee

DEQ staff extended their appreciation to the committee members and those who participate in the meetings for providing their insights and perspectives. Ms. Davenport commented that she learned much from the meeting. She suggested to keep having meetings so that DEQ can continue to get input but to make the meeting process more informal.

A committee member suggested that this committee, being comprised of diverse stakeholders, could be used by DEQ to address many issues related to stormwater management, and DEQ staff agreed. However, the agency staff suggested that they did not need a named committee with formal committee terms for such accomplishments. The committee member agreed. An observer suggested that the committee could transition into a stakeholder advisory group (SAG), and Ms. Davenport stated that it might. Mr. Cunningham offered that the agency wants to hear

from everyone with an interest, not just committee members. He added that DEQ routinely considers all comments received on the agency's policies.

A representative of a local government commented that part of the reason for forming the committee was to encourage BMP innovation. As a goal, she wants the state to encourage BMP innovation, particularly related to having cheaper ways to meet the Bay TMDL.

Updates to Stormwater BMP Clearinghouse Website

Ms. Walker stated that additions and updates have been made to the Proprietary BMP web page. She added that several broken links have been fixed within the References and Tools web page. She asked that anyone that encounters problems using the website or finding broken links report them to her so she can make corrections. Mr. Cunningham added that the MTD application materials would be posted on the website once all materials are provided to Ms. Walker.

Next Meeting Dates

The following meeting dates were proposed as needed:

April 28, 2015;
July 29, 2015;
October 28, 2015; and
January 27, 2016.

Announcements

Richard Jacobs stated that the VASWCD has been working on a pilot urban cost-share program. The pilot program (a.k.a. Virginia Conservation Assistance Program or VCAP) incorporates standards and specifications from the Stormwater BMP Clearinghouse website and includes some innovative BMPs from the Chesapeake Bay Program. The VASWCD has posted documents associated with its program on its website (<http://www.vaswcd.org/urban-committee>). They are also revising the manual associated with the program to incorporate lessons learned.

Adjournment

With no further business, the meeting was adjourned.