

**Non-Point Nutrient Credit Certification
Regulatory Advisory Panel (RAP) Meeting**

February 26, 2016
Draft Meeting Notes

Location: Virginia Department of Environmental Quality (DEQ)
2nd Floor Conference Rooms B&C
629 E. Main Street
Richmond, VA

Start: 9:37 am
End: 3:45 pm

Meeting Attendees:

| <i>RAP MEMBERS*</i> | <i>INTERESTED PARTIES</i> | <i>RAP TECHNICAL SUPPORT</i> |
|---|--|------------------------------|
| Ann Jennings - Chesapeake Bay Commission | Tracey Harmon - VDOT | Melanie Davenport - DEQ |
| Wilmer Stoneman - Virginia Farm Bureau Federation | Casey Jansen - CBNLT | Fred Cunningham - DEQ |
| S. Taylor Goodman - Balzer and Associates, Inc. | Pat Gleason - EPA Region 3 | Allan Brockenbrough - DEQ |
| Steven Herzog - Hanover County | Annemarie Abbondanzo - Ecosystems Services | Sarah Woodford - DEQ |
| Peggy Sanner - Chesapeake Bay Foundation (CBF) | Adrienne Kotula - James River Association | Derick Winn - DEQ |
| Brent Fults - Chesapeake Bay Nutrient Land Trust, LLC | Trieste Lockwood - VCN | Matt Richardson - DEQ |
| Shannon Varner - Troutman Sanders LLP | Kristin Davis - SELC | Debra Harris - DEQ |
| Brian Wagner - Virginia Soil and Water Conservation Districts | Joe Wood - CBF | |
| Tom Simpson - Aqua Terra Science | Jennifer Van Houten - WSSI | |
| Sara Walker - World Resources Institute | Chris Swenson - VDOT | |
| Justin Curtis (alt) - Aqualaw/Virginia Association of Municipal Wastewater Agencies | John Olenik - VDOT | |
| Nikki Rovner - The Nature Conservancy | Laurissa Cubbage - Grelle & Hansen | |
| Joseph Maroon - VEE | Kip Mumaw - Ecosystems Services | |
| | Jacob Dorman - Contech ES | |
| | Chris French - WCF | |

*RAP Members not in attendance: Phil Abraham - Virginia Association of Commercial Real Estate; Doug Beisch, Jr. - Wegnet;; Joe Lerch - Virginia Municipal League; Timothy Mitchell - City of Lynchburg; Kevin Seaford - Virginia Association of Professional Soil Scientists; Jack Storton - Virginia Manufacturers Association; Mike Toalson - Home Builders Association of Virginia; Adam Meurer - ECS Mid-Atlantic; Normand Goulet - Northern Virginia Regional Commission; Larry Land - Virginia Association of Counties; Whitney Katchmark - Hampton Roads Planning District Commission

Agenda Item: Welcome, Overview, Introductions & Update

Discussion Leader: Debra Harris, DEQ & Melanie Davenport, DEQ

Discussion: Debra Harris welcomed all of participants to the reconvened meeting of the Nutrient Trading Credit Certification Regulatory Advisory Panel. Melanie Davenport, Water Permitting Division Director, provided an overview of why the RAP was reconvened and the purpose of this meeting which included a review of the agenda topics (Attachment A – Agenda). The RAP members and meeting attendees were then asked to introduce themselves to all. Everyone was reminded to sign the sign-in sheet in order to provide a record of who was in attendance. A brief update on the current status the regulation was then provided by Ms. Harris.

Agenda Item: Term Nutrient Credits

Discussion Leader: Allan Brockenbrough, DEQ

Discussion: Allan Brockenbrough introduced the topic of term limits and certification renewals for the RAP to discuss. The proposed revisions to the regulation to incorporate the term limit and a renewal process was reviewed. The RAP discussion noted that there was some concern over the timing of the term and the permit. Nutrient credit generating entities could reapply early to ensure no “lapse” in the time for credits that are needed by a permittee using their term credits.

CONCLUSION: *The RAP overall agrees to the concept of a 5-year limit for term nutrient credits. Nutrient credit generating entities*

using practices that generate term credits will be allowed to apply to renew their credit certification. However, the recertification will be based on the current standards for calculation of the term credits generated.

Agenda Item: Perpetual Nutrient Credits & Permanence

Discussion Leader: Allan Brockenbrough, DEQ

Discussion: Allan Brockenbrough began the discussion of perpetual credits with an overview of the revisions to the definition for perpetual credits and the need for clarification of provisions for perpetual credits. The RAP discussed the need for further clarification or provisions of what type of practice would generate perpetual credits.

Agenda Item: Stream/Wetlands Restoration & Mitigation Banking

Discussion Leader: Allan Brockenbrough, DEQ & Sarah Woodford, DEQ

Discussion: Allan Brockenbrough provided an overview of the revisions made to the regulation to incorporate provisions for wetland/stream mitigation and restoration. He explained the general basis for the added provisions.

The RAP took a lunch break from 11:45 a.m. until 12:51 p.m.

The afternoon session began with Sarah Woodford providing a section by section review of the provisions added to the regulation for those nutrient credit-generating entities requesting certification of nutrient credits generated from mitigation or restoration practices. It was noted that there are approximately 100 certified banks, currently. During the review, the RAP provided comments on the provisions and recommended changes.

Agenda Item: Innovative Practices

Discussion Leader: Allan Brockenbrough, DEQ

Discussion: Allan Brockenbrough provided a brief overview of the revisions proposed for innovative practices and the issues for consideration. As time was short, it was decided to have this discussion at the next RAP meeting.

Agenda Item: Public Comment, Next Steps & RAP General Comments

Discussion Leader: Debra Harris, DEQ

Discussion: Debra Harris asked for any additional public comment. No additional comments on the revisions were made. The RAP made general comments asking about discussion of the other non-consensus issues and how new legislation will effect this effort.

Attachment A - Agenda
Certification of Non-Point Source Nutrient Credits, 9 VAC 25-900
Regulatory Advisory Panel Meeting
DEQ Central Office
2nd Floor Conference Rooms
629 E. Main Street
Richmond, VA
February 26, 2016
9:30 a.m. to 4:00 p.m.

Agenda:

- Welcome & Introductions*
- Overview of Agenda & Meeting Purpose
- Update on the Regulatory Process
 - Where we are and where we are going?
- **Term Nutrient Credits**
 - Issues for discussion
 - § Limit the term for term credits (a possible suggestion was no greater than 5 years)?
 - § What about renewals for term credits?
- **Perpetual Nutrient Credits/Permanence**
 - How best to define?
- **Stream/Wetlands Restoration & Mitigation Banking**
 - Overview of the issue
 - Review of draft provisions
- **Innovative Practices**
 - Discussion of what is needed for an innovative practice review process
- Public Comment**
- Next Steps & RAP General Comments
- Adjournment

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

**For members of the public, if you wish to provide comment on the topics discussed, please sign-in and hand the slip to the recorder.