

**Virginia Stormwater Management Program (VSMP)  
Permit Regulations, Parts I, II and III  
Regulatory Advisory Panel  
Friday, July 23, 2010  
Senate Room 3, State Capitol  
Richmond, Virginia**

**VSMP Regulatory Advisory Members Present**

David A. Johnson, Department of Conservation and Recreation, RAP Chair  
David Anderson, Advantus Strategies  
Assad Ayoubi, Fairfax County  
Doug Beisch, Williamsburg Environmental Group  
William Bullard, Department of Defense REC  
Todd Chalmers, Balzer and Associates, Inc.  
Tyler Craddock, Virginia Chamber of Commerce  
Katie Frazier, Virginia Agribusiness  
Andrew Gould, Timmons Group  
Normand Goulet, Northern Virginia Regional Commission  
Barrett Hardiman, Home Builders Association of Virginia  
Steven Herzog, Hanover County  
David Hirschman, Center for Watershed Protection  
Chris Hornung, Silver Companies  
Ann Jennings, Chesapeake Bay Foundation  
Jennifer Johnson, Joyce Engineering  
William J. Johnston, City of Virginia Beach  
Joe Lerch, Virginia Municipal League  
George Simpson, Roanoke County  
Rick Parrish, Southern Environmental Law Center  
Chris Pomeroy, AquaLaw PLC  
Michael Rolband, Wetland Studies and Solutions, Inc.  
Alyson Sappington, Thomas Jefferson Soil and Water Conservation District  
Ingrid Stenbjorn, Town of Ashland  
Kurt Stephenson, Virginia Tech  
William Street, James River Association  
John Tippet, Friends of the Rappahannock  
Jenny Tribo, Hampton Roads Planning District Commission (alternate for John Carlock)  
Shannon Varner, Troutman Sanders  
Keith White, Henrico County (alternate for Jeff Perry)  
Joe Wilder, Frederick County

**VSMP Regulatory Advisory Members Not Present**

Philip Abraham, The Vectre Corporation  
Bob Kerr, Kerr Environmental Services Corporation

Larry Land, Virginia Association of Counties  
Roy Mills, Virginia Department of Transportation

**DCR Staff Present**

Ryan J. Brown  
David C. Dowling  
Michael R. Fletcher  
Doug Fritz  
Jack E. Frye  
Lee Hill  
Christine Watlington  
Elizabeth Andrews, Office of the Attorney General

**Others Present**

Barbara Brumbaugh, City of Chesapeake (alternate for Bill Johnson)  
Judy Cronauer, Fairfax County  
Shelly Frie, CH2M Hill  
L.J. Hansen, City of Suffolk  
David Powers, Ashland  
Scott Reed, CBNLT  
Amy Walker, New Kent County  
Mark Williams, Luck Stone  
Gary Woodson, City of Suffolk

**Welcome and Introductions**

Mr. Johnson called the meeting to order and welcomed members and guests. He noted that this meeting was a continuation of the process of revising the Virginia Stormwater Management regulations. He asked members and staff to introduce themselves.

Mr. Johnson said that the agenda would include basic background history for those who were not involved in the previous process. He said that there had been an extraordinary amount of progress, but that the end result of an effective regulation had not yet been reached.

Mr. Johnson said that there had been widespread dissatisfaction with the regulations as previously approved. In the 2010 Session, the General Assembly acted to delay the implementation of the regulations, but stipulated that they be effective within 280 after the issuance of the Chesapeake Bay TMDL.

Mr. Johnson said that there would be significant policy discussions but that his goal was to move toward a solution. He said that the science must be both sellable and protective of water quality.

Mr. Johnson said that a parallel process was the development of the Chesapeake Bay TMDL. He said that while the stormwater regulations stand part from that, DCR must be mindful of the parallel operation. He said that the two would eventually fit together.

Mr. Johnson said that in the previous process there was an incredible amount of outreach. He said that this time the process would be moving at a faster pace. He said that he hoped that would involve fewer meetings, but that the process would be controlled by a particular timeline.

Mr. Johnson turned the meeting over to Mr. Dowling. Mr. Dowling reviewed the items in member packets and gave the following synopsis of the process to date.

Mr. Dowling noted that member packets included the agenda, the RAP member list, the current regulations, the DRAFT revised regulations and a copy of his presentation. A copy of Mr. Dowling's presentation is included as Attachment #1.

Mr. Dowling said that a copy of Part XIII of the regulations was included. He noted that section was finalized and would not be revisited by the RAP.

Mr. Dowling said that in the last Session, the General Assembly addressed the effective date of the regulations. Several bills in each chamber were conformed to one companion bill. The final legislation says that the regulations shall become effective within 280 days after the final Chesapeake Bay TMDL is issued by the EPA, but not later than December 1, 2011.

Mr. Dowling noted that the legislation also directed the Virginia Soil and Water Conservation Board to convene a Regulatory Advisory Panel (RAP) to review and revise the regulations.

Mr. Dowling said that the sections to be reviewed by the RAP were:

- Part I: Definitions, Purpose, and Applicability
- Part II: Stormwater Management Program Technical Criteria (Water Quality and Quantity)
- Part III: Local Programs

Mr. Dowling reviewed the role of the Regulatory Advisory Panel.

The purpose of the panel is to assist the continuing refinement of the draft stormwater regulations. This panel has been formed to help the Department and the Board balance the concerns of all those interested in this regulatory action. All such concerns will be addressed by the panel, and any panel member is free to advance any opinion.

Mr. Dowling noted that the role of the RAP is advisory. He noted that the goal was for the RAP to reach consensus on the regulations.

Mr. Dowling noted that meetings were public and that those in attendance but not on the RAP would be given the opportunity to speak as appropriate.

Mr. Johnson said that the intent was to drive to consensus where possible. He said that if there were major differences, there would out of necessity need to be more meetings. He said that it would not be productive to take a version to the Board that was not developed by consensus. He said that members may not be 100% comfortable, but that as the regulations were to be science based, they would be understandable.

Ms. Jennings said that she appreciated the desire for consensus. She asked if there was a point of no consensus if there would be an opportunity for a minority report.

Mr. Johnson said that there would always be opportunities for public comment. He said that differing opinions could be captured in the public comment portions of the meetings and that differences voiced by RAP members would be noted.

Mr. Johnson said that he asked for the history to be addressed so that members would understand that this had been a long process. He said that while the document noted that the Statutory Effect Date Target was October 7, 2011, the date for the RAP to have work completed was actually in May of 2011 at the latest.

Mr. Johnson said that while that sounded like a significant amount of time, it would likely take that time to work through the process.

Mr. Johnson noted the significance of the number of meetings held in the process thus far. He said that thousands of people had been involved in the process, yet there was no consensus. He turned to Mr. Hill to provide historical background.

Mr. Hill said that prior to January 29, 2005, stormwater was a multi-program, multi-board, multidepartment program with various components being addressed by DEQ and the State Water Control Board, DCR and the Soil and Water Conservation Board, the Board of Conservation and Recreation and the Chesapeake Bay Local Assistance Board. Each of these entities was involved in stormwater.

Mr. Hill said that in 2005 the requirement to address water quality and quantity became statewide. In 2004 the General Assembly merged the programs into DCR. At that time there was an exempt action to modify the regulations.

Mr. Dowling noted that section 4VAC50-60-30 addressed Applicability and stated:

This chapter is applicable to:

1. Every private, local, state or federal entity that establishes a stormwater management program;
2. Every state agency project regulated under the Act and this chapter; and

3. Every land-disturbing activity regulated under § 10.1-603.8 of the Code of Virginia

Mr. Hill noted that this language made the requirement statewide.

### **Overview of Existing Draft Regulation for Parts I, II and III**

Mr. Dowling gave an overview of the Existing Draft Regulation for Parts I, II and III. Details of this presentation are also included in Attachment #1.

Mr. Johnson said that this was not a simplistic regulation. He said that the work will be tedious and that sometimes the review will be word by word.

Mr. Johnson said that the federal government was also considering and advancing actions associated with stormwater. He noted that was a separate action. He said it was important to remain informed on the status of the federal initiatives.

Mr. Dowling said that there may be future issues that another group will need to address. He said that under the Chesapeake Bay TMDL there would be a deliberation of which criteria to include in the regulation. He noted that it was currently a phosphorus standard. He said that the group would need to consider whether or not nitrogen needed to be addressed.

Mr. Dowling noted that the federal government also passed a rule on sediment standards. He said that internal discussions have concluded this to be a separate process. He said that the ELGs would need to be considered when the General Permit was opened.

Mr. Lerch said that for clarification the ELGs were in the General Permit which was for construction activity only. He said that the concern of the Virginia Municipal League is having post construction standards in the general permit.

Mr. Johnson said that the goal for the ELGs was to have them incorporated into the next General Permit. He said that the next General Permit was due in 2014 and noted that a new General Permit cycle began every five years.

### **Member Issues Identification**

Mr. Johnson said that he would like for members to identify their issues of concern. He said that nothing was expected to be resolved at this meeting. He noted that the intent was to develop subcommittees, but that there should not be an infinite number of subcommittees.

Mr. Johnson said that members would be able to select their subcommittee based on their interest. He said that the intent was to run the subcommittee meetings concurrently.

Mr. Rolband noted that the federal government publishes stormwater guidance and that it was a different system than what had been proposed in Virginia. He asked if the RAP would have to refine the Virginia guidance to conform with the EPA version.

Mr. Johnson said that the RAP would consider that. He said that it was important to recognize that these were guidelines.

Mr. Johnston said that because of the Bay TMDL some consideration should be given to dealing with new development loadings and performance standards.

Mr. Johnson agreed but said that did not have to be final until after the completion of the TMDL.

Mr. Johnson said that offsets are envisioned to be part of the process and that the EPA anticipates that. He said that during discussions with the EPA he had stressed flexibility. He said that some of the things envisioned to improve water quality have extraordinarily high costs.

A member said that he would like to see Virginia set up a process that meets multiple criteria. He said that he was concerned that there were processes underway that might set the state up for failure. He said that the EPA needed to understand Virginia's regulations.

Mr. Johnson noted that the nationwide emphasis was initially focused on sediment. He said that they allude to nutrients but in a much less definitive way.

A member noted that in the last process many were uncomfortable with the regulations being developed while the stormwater handbook was incomplete. He said that would have to be complete before he could sign off on revised regulations.

Mr. Frye said that the Clearinghouse is supported through the Virginia Water Resources Center which is housed at Virginia Tech. He said that the committee has finalized their recommendations. The website is up and accessible.

Mr. Dowling said that there were draft chapters of the handbook already completed. A subcommittee has been working on reviewing the handbook. The work on the handbook will continue through December. However, he noted that it could not be completed until all the regulatory rules were known.

Mr. Johnson said that DCR had only become a regulatory agency in this regard in the last few years. He said that policy documents and guidance will be approved by the director.

Mr. Hardiman said that the Homebuilders were interested in expanding the grandfathering provision.

At this time the committee recessed for lunch.

Following lunch, Mr. Johnson continued with the discussion.

Mr. Johnson said that contact information for staff members would be emailed to RAP members.

Ms. Andrews with the Office of the Attorney General addressed the terms of the Freedom of Information Act as they apply to the RAP. She said that under FOIA, three or more members together or conversing via e-mail would be deemed a meeting. She noted that email discussions should be forwarded through DCR.

Mr. Johnson said that he wanted to continue with the identification of issues and subsequent subcommittee assignments. He said that as time allowed, there would be an opportunity for public comment.

Mr. Johnson asked members to identify what they believed was incomplete or in need of change at the end of the 2009 process.

Mr. Bill Johnston said that Part III was a square peg in a round hole. He said that it would be very clumsy if a locality already charged for stormwater. He said that the City will have to revamp the entire fee schedule. He said that it does not fit well with the process and that every locality is different.

Mr. Johnson said that he intended to establish a Part III subcommittee. He said that he wanted the localities to be comfortable with the delegation. He also said that he hoped that the authority would be delegated to all localities.

Mr. Johnston said that there needed to be a more streamlined process.

Mr. Johnson said that there would be an 18-24 month phase in period. He said that he did not want the localities to be left with a feeling of uncertainty.

Mr. Johnston said that a year would go by quickly.

Mr. Lerch said that the Part III subcommittee should explore separating the post construction standards from the general permit. He said that would go along way to address issues, including the grandfathering issue to an extent. He said that also there needs to be an understanding of how the regulation will address the TMDL.

Mr. Johnson said that this could be looked at and asked Rick Parrish and Chris Pomeroy to discuss the issue.

Mr. Goulet said that perhaps the problem was that the discussion should be shifted from Bay vs. Non Bay to Impaired vs. Non Impaired waters. He said that the emphasis of Bay vs. Non-

Bay doesn't matter if the water was not impaired. He said that the TMDL would override everything.

Mr. Hardiman said that he would not like to see a standard imposed regarding impaired waters if the impairment was not as a result of, or impacted by, homebuilding activity. He said that he recognized that different standards were used around the state.

Mr. Beisch said that the committee discussions should look at a more generalized statewide criteria. Then an additional layer should be added to address the Bay TMDL.

Mr. Johnson said that would allow DCR to tackle something that could be resolved and was applicable. He noted that 60% of the state was in the Bay watershed.

Ms. Jennings said that the TMDL was important but that the RAP should not lose site of the local water quality needs.

Mr. Johnson said that he did not wish to focus primarily on the Bay. He said that the idea of a statewide standard implied there is a need for general water quality. He noted that the need for the TMDL indicates that there is a problem.

Mr. Herzog said that one issue not resolved was the long-term cost of these programs. He said that the inspection and maintenance responsibilities of BMPs were permanent.

Mr. Varner said that there were a number of comments regarding offsets and how best to use them.

Mr. Johnson said that the committee should not work under the assumption that more is better. He said the issue was to solve the problem.

Mr. Johnson said that of concern were the economic conditions. He said that in most cases the implementation of these regulations were four or five years away.

Mr. Johnston questioned the need for a performance table as part of the regulations.

Mr. Johnson said that should be considered.

### **Selection of Subcommittee Issues**

Mr. Johnson led a discussion of the necessity of subcommittees. Issues for committee discussions were determined to be:

- grandfathering
- offsets/credits
- water quality

- water quantity
- Part III

Ms. Watlington noted that members could send their alternates to the subcommittees.

Ms. Jennings said that she would not segregate the Bay vs. the Southern Rivers.

Mr. Johnson said that any additional issues should be submitted to Ms. Watlington.

### **Public Comment**

David Nunnally from Caroline County noted that he was a former DCR employee and that he had worked with the Erosion and Sediment Control program in the 1990s.

Mr. Nunnally said that one of the largest concerns was the mandate to localities. He said that issues among the public were the cost and the level of bureaucracy.

### **Next Steps/Next Meeting**

Mr. Johnson said that the subcommittees would begin meeting in August and would probably meet monthly.

The meeting was adjourned.

Attachment #1

Presentation Materials by David Dowling for Agenda Items 2, 3 and 4

**Stormwater Legislation and RAP Charge from the General Assembly Session**

**HB 1220 (Hugo) [Chapter 137] and SP 395 (Wagner) [Chapter 370] – Stormwater management regulations; changes effective date that establishes local program criteria.**

**CHAPTER 137 [H 1220] and CHAPTER 370 [S 395]**

*An Act to amend and reenact the second enactment of Chapter 18 of the Acts of Assembly of 2009, relating to stormwater management regulations.*

Approved March 11, 2010; Approved April 10, 2010

**Be it enacted by the General Assembly of Virginia:**

**1. That the second enactment of Chapter 18 of the Acts of Assembly of 2009 is amended and reenacted as follows:**

**2. That the regulation that establishes local program criteria and delegation procedures and the water quality and water quantity criteria, and that is referenced in subsections A and B of § 10.1-603.3 of this act, shall not become effective prior to July 1, 2010 within 280 days after the establishment by the United States Environmental Protection Agency of a Chesapeake Bay-wide Total Maximum Daily Load (TMDL) but in any event no later than December 1, 2011.**

**2. That the Virginia Soil and Water Conservation Board shall convene an advisory panel of stakeholders to review the regulation and to make recommendations to the Board on revisions to the regulations necessary to, among other things, comply with such TMDL.**

[Incorporated similar bills by Delegates Bulova (HB 1311) and Dance (HB 155) and Senators Hanger (SB 677), Watkins (SB 245) and Whipple (SB 681). A Senate budget amendment, item 351 #5s also contained the delay language.]

## **Framework of Stormwater Regulations**

The regulations are comprised of 15 parts.

### VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) PERMIT REGULATIONS [4VAC 50-60-10 et seq.]

Part I: Definitions, Purpose and Applicability

Part II: Stormwater Management Program Technical Criteria (Water Quality and Quantity)

Part III: Local Programs

Part IV: Technical Criteria and Permit Application Requirements for State Projects

Part V: Reporting

Part VI: VSMP General Program Requirements Related to MS4s and Land-Disturbing  
Activities

Part VII: VSMP Permit Applications

Part VIII: VSMP Permit Conditions

Part IX: Public Involvement

Part X: Transfer, Modification, Revocation and Reissuance, and Termination of VSMP Permits

Part XI: Enforcement of VSMP Permits

Part XII: Miscellaneous

Part XIII: Fees – Effective February 3, 2010

Part XIV: General Virginia Stormwater Management Program (VSMP) Permit for Discharges  
of Stormwater from Construction Activities – Effective July 1, 2009

Part XV: General Virginia Stormwater Management Program (VSMP) Permit for Discharges  
of Stormwater from Small Municipal Separate Storm Sewer Systems – Effective July 9, 2008  
FORMS

**DOCUMENTS INCORPORATED BY REFERENCE**

## **ADVISORY GROUP GUIDELINES**

### **Role of the Regulator Advisory Panel (RAP)**

The purpose of this panel is to assist in the continuing refinement of the draft stormwater regulations. This panel has been formed to help the Department and the Board balance the concerns of all those interested in this regulatory action. All such concerns will be addressed by the panel, and any panel member is free to advance any opinion.

The role of the panel is advisory. The panel's primary responsibility is to collaboratively contribute to a regulation that is in the best interests of the Commonwealth as a whole.

The panel's goal is to reach a consensus on these regulations and make recommendations to the Department and Board. For the purposes of this RAP, consensus is generally defined as a willingness of each member of a panel to be able to say that he or she can *live with the decisions reached and will not actively work against them outside of the process*. This is not to say that everyone will be completely satisfied by the results of the process. It is necessary, however, that each participant come prepared to negotiate in good faith around complex and sensitive issues. Also, because the panel represents many different interests, all members should expect to compromise in order to accomplish the group's mission. If the group cannot reach consensus, the Department staff will present the differing opinions to the Board as well as the Department's recommendation.

Voting, per se, is contrary to a consensus-based process, but people may be asked to demonstrate their strength of feeling for or against a particular idea, and may be asked to help set priorities during the course of the process.

### **Participation by Persons not on the Panel**

Because these types of panel meetings are public meetings, any member of the public may attend and observe the proceedings. However, only panel members have a seat at the table (or their designated alternate in their absence) and only those members may actively participate in the discussions. Those persons not on the panel are encouraged to work with the panel members that have common interests to ensure their concerns are heard. The Department will also provide a means for those persons not on the panel to make their concerns known to the panel to ensure full consideration of all issues surrounding the regulation in question, provided it is not disruptive or does not inhibit the advancement of the work of the panel. For the stormwater RAP, those persons not on the panel will have an opportunity to be formally heard during public comment portions scheduled at each RAP meeting. Time limitations may be necessary in order to ensure all persons have an opportunity to address the panel. Additional public comment opportunities may also be offered at the discretion of the Department and the Board.

### **When a Panel Assisting in Regulation Development is Finished**

After the panel makes its recommendations, Department staff managing the panel will summarize the deliberations, outcomes and recommendations. Utilizing this information, Department management will determine recommendations that will be sent to the Board prior to the meeting where the subject is scheduled for consideration.

Areas where the panel was unable to reach consensus or where the Department's recommendation differs from the panel's recommendation will be identified in the material sent to the Board. In turn, the Board will decide if the Department's recommendation should be further modified before acting upon it.

As with all other members of the public, members of the panel are free to attend the meeting at which Department staff will present its recommendation. The Board will determine whether it will receive further public comment at that time. It is hoped that if the regulation is essentially that developed by the panel through the consensus-based process, members of the panel will actively support the work of the panel.

### **GENERAL GUIDELINES FOR DISCUSSIONS**

Listen with an open mind and heart – it allows deeper understanding and, therefore, progress.

Speak one at a time; interruptions and side conversations are distracting and disrespectful to the speaker. "Caucus" or private conversation between members of the audience and people at the table may take place during breaks or at lunch, not during the work of the group.

Be concise and try to speak only once on a particular issue, unless you have new or different information to share.

Simply note your agreement with what someone else has said if you feel that it is important to do so, it is not necessary to repeat it.

If you miss a meeting, get up to speed before the next one as the group cannot afford the luxury of starting over.

Focus on the issue, not the speaker – personalizing makes it impossible to listen effectively.

Present options for solutions at the same time you present the problems you see.

Stay positive; despairing of the group's inability to reach agreement will almost certainly make it so.

Turn off all beepers and cell phones; take or make calls outside the room.

### **INFORMATION MANAGEMENT**

The Department will continue to keep an archive of information regarding the workings of its advisory committees on this regulatory action. Handouts and meeting minutes will be posted to the Policy, Regulations and Public Comments portion of the Department's website and may be accessed at:

<http://www.dcr.virginia.gov/lawregs.html>

Information on the Chesapeake Bay TMDL may be found at the following websites:

EPA: <http://www.epa.gov/chesapeakebaytmdl/>  
VA-DCR: [http://www.dcr.virginia.gov/soil\\_and\\_water/baytmdl.shtml](http://www.dcr.virginia.gov/soil_and_water/baytmdl.shtml)  
VA-DEQ: <http://www.deq.virginia.gov/tmdl/chesapeakeby.html>

**Regulatory Process, Status and Timetable Associated with Parts I, II and III Action**

- Board originally passed a motion authorizing the development of a NOIRA (Notice of Intended Regulatory Action) on July 21, 2005.
- The NOIRA was filed on: November 15, 2005
- On December 26, 2005 the original Virginia Stormwater Management Program VSMP Permit Regulations NOIRA related to the development of local stormwater program criteria and permit delegation procedures was published in the Virginia Register of Regulations by DCR on behalf of the Board.
- The 60-day public comment period and two public hearings were held between December 26, 2005 and February 24, 2006.
- During March and April of 2006 the Department selected the TAC and secured a facilitator.
- The TAC was assembled during March and April of 2006 and was composed of 23 members including local governments (9); environmental groups (3); state agencies (5 members; 4 agencies); federal agencies (1); consultants – Home Builders (3); soil and water conservation district (1); planning district commission (1).
- Between May 4, 2006 and August 21, 2007, the Department held 12 TAC, 4 TAC subcommittee, and 1 technical discussion group meetings.
  - The 1<sup>st</sup> meeting of the TAC: May 4, 2006 at the Science Museum of Virginia.
  - The 2<sup>nd</sup> meeting of the TAC: May 18, 2006 at Department of Forestry
  - The 3<sup>rd</sup> meeting of the TAC: June 8, 2006 at Department of Forestry
  - The 4<sup>th</sup> meeting of the TAC: June 20, 2006 at the Science Museum of Virginia.
  - Part III subcommittee meeting: August 8, 2006 at DEQ regional office.
  - Part II subcommittee meeting: August 16, 2006.
  - The 5<sup>th</sup> meeting of the TAC: August 21, 2006 at the Science Museum. (Part III)
  - Part XIII subcommittee meeting: August 29, 2006 at DEQ regional office.
  - Part II subcommittee meeting (2<sup>nd</sup> meeting): September 21, 2006 at DOF in New Kent.
  - The 6<sup>th</sup> meeting of the TAC: October 3, 2006 at DOF in New Kent, (Tributary Strategies Presentation, Part II, Part III)
  - Part II technical discussion meeting: October 12 at DCR.
  - The 7<sup>th</sup> meeting of the TAC: October 16, 2006.
  - The 8<sup>th</sup> meeting of the TAC: May 22, 2007.
  - The 9<sup>th</sup> meeting of the TAC: June 14, 2007.
  - The 10<sup>th</sup> meeting of the TAC: June 26, 2007.
  - The 11<sup>th</sup> meeting of the TAC: June 29, 2007.
  - The 12<sup>th</sup> meeting of the TAC: August 21, 2007.

- At the September 20, 2007 Board meeting, the Board approved the staff recommendation to withdraw the NOIRA stage for Parts I, II and III in order to eliminate any question regarding the intent of the original NOIRA related to the Part II water quality and quantity technical criteria and authorized the Department to file a new NOIRA. As part of this motion, the Board directed the Department and the new TAC it would form, to build on the work of the previous TAC. The Board also directed the Department to:
  - Assemble a workgroup to develop water quality language for the TAC's consideration.
  - Continue work on BMP Clearinghouse.
  - Continue work on Handbook Revisions.
  - Hold a series of regulation discussion and plan review meetings to address water quality calculations and spreadsheet approach.
  - Work on fiscal analysis of proposed regulation.
- 60-day public comment period associated with the new NOIRA for Parts I, II and III opened on the TownHall on February 18, 2008.
- New NOIRA published in Register March 17, 2008 (previous NOIRA stage withdrawn).
- 60-day public comment period closed April 16, 2008.
- 29-member TAC was appointed that included most of the original TAC but incorporated a number of additional stormwater engineers to bring additional technical expertise to the TAC.
- Between June 10, 2008 and September 9, 2008, the Department held an additional 5 TAC and 4 water quantity workgroup meetings. The water quantity group was a separate advisory committee that was established and made up of technical experts:
  - The 1<sup>st</sup> Water Quantity workgroup meeting: April 22, 1008.
  - The 2<sup>nd</sup> Water Quantity workgroup meeting: May 20, 2008.
  - The 3<sup>rd</sup> Water Quantity workgroup meeting: May 27, 2008.
  - The 1<sup>st</sup> meeting of the TAC: June 10, 2008.
    - The 4<sup>th</sup> Water Quantity workgroup meeting: July 9, 2008.
  - The 2<sup>nd</sup> meeting of the TAC, July 16, 2008.
  - The 3<sup>rd</sup> meeting of the TAC: August 14, 2008.
  - The 4<sup>th</sup> meeting of the TAC: August 26, 2008.
  - The 5<sup>th</sup> meeting of the TAC: September 10, 2008
- The Department contracted with the Center for Watershed Protection to provide recommendations to the Department and the Board regarding the water quality and quantity criteria portions of the regulations. The Center, utilizing the best stormwater data sets and scientific methodologies available in the nation, put forth technical recommendations to the Department and developed the Virginia Runoff Reduction Method and worksheet. These recommendations and processes were incorporated into the proposed regulations.
- The Department also contracted out with Dr. Kurt Stephenson, an economist at Virginia Tech in June of 2008 to assist in determining the cost of the regulations as well as the general off-setting costs associated with further degradation of Virginia's waters in the absence of these regulatory revisions. A final report was completed December 31, 2008.

- The Department held three rounds of Charettes to test the Virginia Runoff Reduction Method and the achievability of the regulations and to familiarize the public with the method:
  - First round of charettes were held (in association with ASCE):
    - #1 Dorey Park, Richmond (Jan. 31, 2008)
    - #2 Lakes and Watershed Conference (March 11, 2008)
    - #3 Environment VA (April 1, 2008)
    - #4 Hampton Roads (April 29, 2008)
    - #5 Northern VA (May 12, 2008)
  - The product was refined during the summer of 2008 based on comments received.
  - Second round of charettes were held:
    - #1 Pocahontas State Park, Chesterfield (September 3, 2008)
    - #2 Wetland Studies and Solutions, Gainesville (September 16, 2008)
  - Third series of charettes on the Runoff Reduction Method and stormwater regulations were held in February, March and April of 2009.
- Between the series of charettes, we would estimated that we had about 400+ different people attend, with 55-60% of those from consulting firms or construction companies, and about 25-30% from local governments.
- The Department distributed the methodology to interested entities that were willing to conduct testing. Additionally, the James River Association contracted with Williamsburg Environmental Group to methodically test the regulations and methodology and to look at cost implications.
- To ensure that standard designs were available for the required best management practices, the Department established a Stormwater BMP Clearinghouse Advisory Committee that met on 12 occasions to date. The Department contracted with the Virginia Water Resources Research Center at VT to develop the website and assist DCR in the administration of the advisory committee. The Department has worked with both CWP and Dr. Tom Schueler of the Chesapeake Stormwater Network to develop the BMP specifications and checklists:
  - Meeting dates were as follows: May 30, 2007, June 21, 2007, September 11, 2007, December 12, 2007, March 13, 2008, June 12, 2008, September 11, 2008, January 13, 2009, June 11, 2009, September 10, 2009, January 25, 2010, and April 19, 2010.
- To assist in the review of Stormwater Handbook chapters, an advisory committee was formed. The committee has been utilized to review and comment on the content of the draft handbook.
- Upon completion of the technical advisory group meetings, proposed regulations were approved by the Board at the September 24, 2008 meeting.
- DCR submitted the proposed regulations for review to the Administration on March 26, 2009, review completed on May 29, 2009.
- A 60-day public comment period began on June 22, 2009 and closed on August 21, 2009.

- Public hearings/information meetings were held as follows:
 

June 30 <sup>th</sup>	Hungry Mother State Park	8	in attendance and 3 spoke
July 1 <sup>st</sup>	Augusta County Government Center	48	in attendance and 22 spoke
July 7 <sup>th</sup>	City of Manassas	59	in attendance and 28 spoke
July 9 <sup>th</sup>	City of Hampton	62	in attendance and 22 spoke
July 14 <sup>th</sup>	Virginia General Assembly Building	~165 342	in attendance and 60 spoke 135
  
- During the comment period a total 3, 421 public comments were received. These included:
  - 2,032 from a door to door campaign
  - 135 from the public hearings
  - 443 from the Regulatory TownHall
  - 171 individualized stakeholder letters
  - 639 action alerts (3 groups – CBF, VCN, Realtors)
  - 1 EPA
  
- Additionally, the past Director convened two special meetings (August 25 and September 3, 2009) of an informal “sounding board” composed of a diverse set of key stakeholders to discuss possible revisions to several key issues in the draft regulations.
  
- On September 17, 2009, the Virginia Soil and Water Conservation Board adopted final revisions to the Virginia Stormwater Management Program (VSMP) Permit Regulations Parts I, II and III and Part XIII (4VAC50-60), and then suspended the effective date of these regulatory actions under §2.2-4015 A 4 of the Virginia Administrative Process Act to allow time for a 30-day public review and comment period on changes made since the original proposed regulations were approved on September 24, 2008.
  
- The additional 30-day public review and comment period on the changes that were made between the proposed regulations and the final regulations adopted by the Board on October 5<sup>th</sup>, ran from October 26, 2009 to November 25, 2009. 207 comments were received during this comment period.
  
- The Department also held an additional 50+ public meetings with constituent groups, planning commissions, civic organizations, engineers, conferences, General Assembly committees, etc. Meetings such as these have continued.
  
- On December 9, 2009, the Virginia Soil and Water Conservation Board adopted final revisions to the Virginia Stormwater Management Program (VSMP) Permit Regulations Parts I, II and III (4VAC 50-60).
  
- The regulations were published in the Virginia Register on January 4<sup>th</sup>.
  
- The Board on January 14, 2010, in response to 25 petitions received during the 30-day final adoption period, suspended the July 1, 2010 effective date of this regulatory action in accordance with §2.2-4007.6 of the Virginia Administrative Process Act to allow time for a 30-day public review and comment period on changes made since the original proposed regulation was approved on September 24, 2008. The public comment period opened on February 15, 2010 and closed on

March 17, 2010 and the regulations currently remain suspended in order to address recent legislation from the 2010 Session. Approximately 23 comments were received.

**Future Potential Target Dates**

- December 31, 2010 EPA establishes the Bay TMDL
- May 2011, Board adoption of final regulations
- Mid June 2011 thru mid August 2011 (estimated 60-days), Review by the Administration
  - Official OAG review – 3 days
  - 14 days DPB fiscal analysis review
  - 14 days SNR
  - No deadline Governor
- August 10, 2011, Deadline for submittal of regulatory materials to the Registrar for publication
- August 29, 2011, Publication in Virginia Register (30-day final adoption period)
- October 7, 2011 Statutory Effective Date Target (280 days)