

**Northern Area Review Committee Meeting  
Friday, February 15, 2008 – 10:00 a.m.  
101 N. 14<sup>th</sup> St. – James Monroe Building  
Richmond, Virginia**

**Northern Area Review Committee Members Present**

Donald W. Davis, Board Chair

Gregory C. Evans

**Northern Area Review Committee Members Not Present**

William E. Duncanson, Chair

Rebecca Reed

**DCR Staff Present**

Russell W. Baxter, Deputy Director  
Joan Salvati, Director, Division of Chesapeake Bay Local Assistance  
David Sacks, Assistant Director, Division of Chesapeake Bay Local Assistance  
Michael R. Fletcher, Board and Constituent Services Liaison  
Nathan Hughes, Watershed Specialist  
V'lent Lassiter, Senior Environmental Planner  
Nancy Miller, Senior Environmental Planner  
Daniel Moore, Principal Environmental Planner  
Shawn Smith, Principal Environmental Planner  
Josh Molnar, Policy Intern  
Adrienne Kotula, Principal Environmental Planner

**Others Present**

Jimmy Sydnor, Town of Tappahannock  
Troy Tignor, Spotsylvania County  
Melvin Bennett, Spotsylvania County  
Kevin Utt, City of Fredericksburg  
Stephen Smallwood, City of Fredericksburg  
Michael Finchum, Caroline County  
David Nunnally, Caroline County  
Gary Ziegler, Westmoreland County

**Call to Order and Opening Remarks**

Mr. Evans called the meeting to order. There was not a quorum present.

**Local Program Reviews: Compliance Evaluation**

Mr. Evans noted that two members were needed for the purpose of a quorum. He said that staff would continue with the reviews but votes would not be held until a second member arrived.

Mr. Sacks gave an overview of the three types of Local Bay Act Programs:

**“Phase I Consistent”** means that required local ordinances (zoning, subdivision, maps, etc.) are in place to designate CBPAs and to require that the performance criteria are met.

Mr. Sacks said that of the 84 Bay localities, 82 have been determined to be Phase I Consistent. He said that one additional locality was on the SARC agenda for the afternoon meeting.

**“Phase II Consistent”** means that the comprehensive plan components have been adopted.

**“Compliant”** means the locality is properly implementing the required Phase I components of the local Bay Act program.

### **Locality Compliance Evaluation Review Process**

Mr. Sacks reviewed the Locality Compliance Evaluation Review Process.

- Evaluation Process Steps:
  1. Initial meeting to collect information and discuss program
  2. Review of sample of approved plans
  3. Site visits of developments in-progress and completed
- Board conducts initial compliance evaluation; determines “compliant” or identifies conditions necessary for compliance
- Board conducts compliance evaluation condition review

Mr. Davis arrived and a quorum was attained.

#### *Caroline County - Review of previous conditions*

Ms. Kotula presented the report for Caroline County. She recognized Michael Finchum, Planning and Community Development Director for the County and Mr. David Nunnally, the Caroline County Environmental Planner.

The County was initially found compliant in December of 2006 and a supplemental Compliance Evaluation was started in June of 2007, due to the County halting their septic pump-out program. The County had one condition that required them to restart the pump-out program and was given until January 31, 2008 to restart the process.

Since June of 2007, the County has made significant progress in establishing a septic pump-out program. They have sent additional notices to low-to-moderate income homeowners and have letters ready to be sent to property owners within the Resource Protection Area. Their efforts have resulted in an impressive compliance rate of over 70% throughout the County.

Ms. Kotula said that it was the recommendation of staff that Caroline County be found compliant with the Act and Regulations.

Mr. Davis recognized Mr. Finchum from Caroline County.

Mr. Finchum said that the County had worked closely with DCR staff and was a very appreciative of staff assistance.

Mr. Davis said that the Board appreciated the County's cooperation.

Ms. Salvati said that it was encouraging that the County had received a 70% response rate.

Mr. Finchum said that the County is still working through the lake communities. Programs there are slightly different and notices are sent out when assessments are due.

Mr. Davis asked if the entire County was subject to the Chesapeake Bay Act.

Mr. Finchum said that about 70% of the County has a defined preservation act feature. He said that as the County continues to develop their GIS, they would revisit the RMA classifications.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that Caroline County has addressed the one condition from the June 20, 2007 compliance evaluation and further that the Board find the implementation of the County's Phase I program compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Davis

DISCUSSION: None

VOTE: Motion carried

*Spotsylvania County - Review of previous conditions*

Ms. Kotula gave the report for Spotsylvania County. She recognized Troy Tignor, Zoning Administrator and Melvin Bennett, Erosion & Sediment Control Administrator for the County.

The County had an Initial Compliance Evaluation completed in September 2006 that resulted in three conditions that the County has now addressed.

1. Implement a septic system pump-out notification and enforcement program.

The County began their program in December by notifying approximately 2,400 property owners

within the Resource Protection Area. As the remaining portions of the County are all within the Resource Management Area, they will continue the process of notifications by dividing the remaining properties evenly over the next four years.

2. Amend design standards and removal efficiencies for BMPs in the County Design Standards Manual to conform to the Virginia Stormwater Management Handbook.

County and DCR staff worked together on this issue and determined that because the stormwater regulations are currently undergoing revision, it would be best to wait until after those are adopted to revise the County Manual. Instead, the County has issued a technical bulletin notifying the public that no BMP efficiencies over 65% will be accepted without County specific data.

3. Amend Stormwater Ordinance to require findings for review and approval of administrative waivers for the stormwater requirements.

The County amended the ordinance on April 10, 2007.

Ms. Kotula said that it was the recommendation of staff that Spotsylvania County be found compliant with the Act and Regulations.

Mr. Tignor said that the County would like to thank Ms. Kotula for her assistance. He added the septic pump-out notices have been generally well received by the public.

Mr. Tignor also explained that the County viewed a demonstration of Loudoun County's use of the Carmody Septic System Information Management Program, a computer program specifically designed to maintain data needed to implement a septic system pump-out program. . The program is available online and is anticipated to be of tremendous help to the County.

Mr. Davis asked if the product was developed locally.

Mr. Tignor said that the product was sold nationwide.

Mr. Davis asked Mr. Baxter for an update concerning the DCR Stormwater Management regulations.

Mr. Baxter said that due to a concern with the initial NOIRA (Notice of Intended Regulatory Action), the stormwater regulations have been delayed. The initial NOIRA was not broad enough to cover the issues discussed and determined a necessary part of the regulations. A new NOIRA has been issued. DCR will be reconvening a Technical Advisory Committee (TAC) to review progress made and additional necessary changes. The proposed date to take the revised regulations to the Soil and Water Conservation Board is September or November of 2008.

Mr. Evans asked if it was DCR's assumption that the actions localities are already taking would track with the revised regulations.

Mr. Baxter said what the localities are doing now should not be a problem. Standards and technical criteria will change. Once the new system is in place, localities will be required to implement the programs.

Ms. Salvati said that because the Bay Act did have stormwater requirements those localities already have processes in place.

Mr. Davis asked if Mr. Baxter anticipated anything affecting the efficiency of BMPs.

Mr. Baxter said that DCR is working on updates to the manual through a process called the BMP Clearinghouse. This will allow more flexibility to update as better efficiencies are developed.

Mr. Davis suggested that at the September or December Board meeting staff provide an update on the regulatory process for stormwater management.

**MOTION:** Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that Spotsylvania County has addressed the three Conditions from the September 26, 2006 compliance evaluation and further that the Board find the implementation of the County's Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

**SECOND:** Mr. Davis

**DISCUSSION:** None

**VOTE:** Motion carried

#### *Westmoreland County - Initial Compliance Evaluation*

Ms. Lassiter presented the report for Westmoreland County. She introduced Gary Ziegler, Zoning Administrator for the County.

The Department initiated a compliance evaluation for Westmoreland County on September 26, 2007. The compliance evaluation revealed that although the County is striving to implement its local Bay Act program effectively, there are program elements that require improvement.

The conditions for compliance by March 31, 2009 are:

1. Require a WQIA for any land disturbance, development or redevelopment in the RPA.

During the review, staff noticed that most of the site plans did not contain WQIAs as required.

2. Address Erosion and Sediment Control program issues identified in the 2008 Corrective Action Agreement.

The County has until July 30, 2008 to address the issues.

3. Develop and implement a septic pump-out and inspection program.

Although the County does not have a formalized pump-out program, no zoning permits for any expansion of a structure, additional structures, or a change in use are issued until after the applicant supplies proof of septic tank pump-out.

4. Develop a program to track BMP installation, inspection and maintenance.

Department staff has provided the County with a BMP tracking database.

5. Ensure that permitted removal of RPA buffer vegetation is done in accordance with the requirements of the Regulations and the County code.

The County must recognize that while limited removal of vegetation in the RPA is permitted, it must be done selectively by hand and that leaf litter, ground cover, and understory vegetation should be left intact.

Ms. Lassiter said that the staff recommendation was that the Board find that certain aspects of Westmoreland County's Phase I program do not fully comply with the Act and the Regulations and that the County be required to address the 5 conditions by March 31, 2009.

Mr. Ziegler said that staff transition has delayed some of the projects. Staff is working on ordinance amendments.

Mr. Evans suggested that County staff consider a Memorandum of Understanding with the Northern Neck Soil and Water Conservation District.

**MOTION:** Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of Westmoreland County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and that Westmoreland County be directed to undertake and complete the five Recommended Conditions contained in the staff report no later than March 31, 2009.

**SECOND:** Mr. Davis

**DISCUSSION:** None

**VOTE:** Motion carried

**REVISED:** 3/14/2008 10:36:07 AM

*City of Fredericksburg - Initial Compliance Evaluation*

Ms. Kotula gave the report for the City of Fredericksburg. She recognized Stephen Smallwood, Director of Building & Development Services and Kevin Utt, Site Development Manager from the City.

The Compliance Evaluation was conducted throughout the second half of 2007 and the process revealed seven program elements that were not fully compliant with the Act and the Regulations. Since the issuance of the staff report, however, some of these elements have been addressed.

The seven conditions are:

1. Address Erosion and Sediment Control Issues from 2007 Corrective Action Agreement.

Site visits revealed several possible E&S violations that were of concern. The City does have a Corrective Action Agreement with the Soil and Water Conservation Board in order to bring their E&S program into compliance. It is staff's understanding that the City has made significant progress towards addressing this agreement, with three of the four elements identified within the CAA having been addressed. They have received an extension until July to address the remaining condition of the CAA. Nevertheless, the City still has not obtained compliance and therefore staff is still recommending the condition as noted within the staff report.

2. Develop and implement a septic pump-out and inspection program.

DCR staff was recently notified that the City mailed pump-out notifications on February 8<sup>th</sup> to all 44 property owners with septic systems within the City. The City pump-out requirements are not contained within the CBPO requirements, but rather within a separate section of code applicable to all residents. Six sites are still under investigation to determine whether septic tanks are present. City staff has provided documentation to demonstrate that the notification has, in fact, occurred. As a result of this information, staff recommends that this condition now be removed.

3. Add 100 percent reserve drainfield requirement into City Ordinance.

At the time the original Bay Act ordinance amendments were taking place, the City believed that no more septic systems would be approved within their boundaries, but as development pressures increased, new development has been proposed with septic systems, and therefore the reserve drainfield requirement must now be included within the ordinance. Although the City has a policy in place that will not allow the installation of any further septic systems within the City, as their Code still permits the activity, they are required to include this verbiage.

4. Ensure development and redevelopment in CBPAs meets water quality provisions of Virginia Stormwater Management Regulations.

5. Ensure that all water quality BMPs meet standards of the Virginia Stormwater Management Handbook.
6. Develop a program to track BMP installation, inspection and maintenance.

Conditions 4,5, and 6 relate to stormwater and BMP requirements. The Compliance Evaluation plan reviews and site visits revealed that proper stormwater calculations, “proper BMP design and siting” and “proper BMP tracking and maintenance” were not being consistently required for all development within the City. The City is working to address these conditions and has already established a BMP maintenance agreement program, which will be monitored over the next year to ensure compliance.

7. Consistently require site-specific evaluation for water bodies with perennial flow and RPA boundaries.

Plan reviews and site visits revealed that the City has not been consistently requiring these evaluations. A site visit by DCR staff revealed that a stream within the Kensington Hills development has strong perennial indicators, meaning that a definitive study should have been required, but was not completed. The City acknowledges that this is a requirement and now has staff on board that will be able to assist with these issues in the future. The City will be monitored over the next year to ensure compliance.

Ms. Kotula said that the staff recommendation was that the Board find the City of Fredericksburg to not fully comply with the Act and Regulations and that the City be given until March 31, 2009 to address the six remaining conditions discussed.

Mr. Utt said that since staff completed the evaluation the City has been addressing the Erosion and Sediment control issues and has gained compliance on three of the four issues within the Corrective Action Agreement.

Mr. Baxter noted that the City was on the agenda for the recent Soil and Water Conservation Board meeting and had been given until July to address the concerns in the CAA.

Mr. Utt said the City intended to have this accomplished by March.

Mr. Baxter said that because the City is operating under a resolution of the Soil and Water Conservation Board that the Chesapeake Bay Local Assistance Board could not remove that condition.

Mr. Evans said that perhaps it would be helpful to establish a separate compliance deadline.

Mr. Baxter said that the recommended motion would not conflict with the Soil and Water Conservation Board actions.

Ms. Salvati said that staff does take into consideration the Corrective Action Agreements and that efforts are made to avoid conflicts.

Mr. Smallwood said that the City has hired two administrators to work on these issues. He acknowledged that the City had a tremendous amount of work to do in eight months. He said that the City does have concern about staff reductions and noted that would affect Erosion and Sediment control programs as well.

Mr. Evans said that it was important that the minutes reflect that the City is making concerted efforts to address these conditions quickly.

Mr. Davis asked that an update be provided at the September meeting.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that certain aspects of the City of Fredericksburg's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations. Further, noting that the City has addressed condition number 2, that the City be directed to appropriately address the remaining six Conditions contained in the staff report no later than March 31, 2009 with a progress report provided to the Board in September.

SECOND: Mr. Davis

DISCUSSION: None

VOTE: Motion carried unanimously

*Town of Tappahannock - Initial Compliance Evaluation*

Ms. Miller presented the report for the Town of Tappahannock. She introduced James Sydnor, Assistant Town Manager/Zoning and Code Compliance Officer for the Town.

The Department initiated the compliance evaluation process in late summer of 2007, reviewing site plan files and conducting site visits with assistance from Town staff. The compliance evaluation process revealed that the Town is implementing its local Bay Act program effectively and Town staff are quick to adjust the local program, if necessary to ensure continued compliance and implementation consistent with the Regulations. The compliance evaluation revealed no significant problems with the Town's Phase I program.

Ms. Miller said that the staff recommendation was that the Board find the Town compliant with the Act and Regulations.

Mr. Sydnor thanked DCR staff for their assistance.

**MOTION:** Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the implementation of the Town of Tappahannock's local Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

**SECOND:** Mr. Davis

**DISCUSSION:** None

**VOTE:** Motion carried

*City of Fairfax - Initial Compliance Evaluation*

Mr. Moore gave the report for the City of Fairfax. No one was present from the City.

Department staff initiated the Compliance Evaluation process in October 2007. In the course of the review process, staff found some minor issues that, if addressed by City staff, could help clarify and improve the plan of development process both for applicants and City staff and enhance the City's public education efforts relative to CBPA awareness. These suggestions involved minor text amendments to various forms and documentation and City staff has indicated a willingness to make the suggested changes.

Based on site plan reviews, five development sites were inspected in the course of the compliance evaluation. One of the development sites was Picket's Reserve, a 28-acre, 88-lot subdivision on the City's eastern border with Fairfax County. Development of the subdivision involved use of three off-site BMPs on an adjacent 15-acre site to the east.

Mr. Moore said that, based on the compliance evaluation, it was the staff recommendation that the Board find that implementation of the City's Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

**MOTION:** Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the City of Fairfax's Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations

**SECOND:** Mr. Davis

**DISCUSSION:** None

**VOTE:** Motion carried

*Town of Quantico - Initial Compliance Evaluation*

Mr. Moore gave the report for the Town of Quantico. No one was present from the Town.

Mr. Moore said that the staff report included a suggestion that the Town, in collaboration with Prince William County, develop a formal Memorandum of Understanding setting forth specific duties related to the plan of development review process that the County is willing to carry out for the Town. This suggestion is not based on any documented problem with the Town's implementation of its Phase I program, but rather is intended to provide an effective administrative safeguard for the Town in anticipation of any potential development pressures in the Town in the future.

Mr. Moore said that, based on the compliance evaluation, it was the staff recommendation that the Board find the implementation of the Town's Phase I program complies with §§ 10.1-2109 and 2111 of the Act and 9 VAC 10-20-231 and 250 of the Regulations.

Mr. Evans said that with the expansion of the military base at Quantico, the area would be receiving a large influx of people.

Mr. Moore said that, in conversations with representatives of the Town, DCR staff pointed out that the opening of the Marine Corps Museum and recent updates to the VRE rail system will likely result in increased development pressures.

MOTION: Mr. Evans moved that the Northern Area Review Committee recommend that the Chesapeake Bay Local Assistance Board find that the Town of Quantico's Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Davis

DISCUSSION: None

VOTE: Motion carried

**Other Business**

*Update: King & Queen Ordinance Revisions*

Ms. Salvati said that an issue had arisen with King and Queen County. On December 10, 2007 the Board deemed the County fully compliant. That evening the County adopted revisions to their ordinance that, upon review, would likely be deemed inconsistent by the Board. Staff from the County did not inform Department staff of the proposed changes in advance. In January, DCR staff provided a comment letter indicating those areas of the proposed amendments that reflected major program modifications that would have to be reviewed by the Board.

On January 16, the Board rescinded the revisions. DCR staff has informed the Planning Commission that staff is willing to help with the necessary revisions. At their February 4 meeting the Board announced a working group to include members of the Board, members of the Planning Commission, the new County attorney and department staff.

The County has asked for DCR input for the redrafting.

Ms. Salvati said that staff has held the first training session on the new non-tidal guidance. The second session is scheduled for March 28 at the Hampton Roads Planning District Commission headquarters. A third will be held later in the spring.

**Public Comment**

There was no additional public comment.

**Adjourn**

There was no additional business and the meeting was adjourned.

Respectfully submitted,

Donald W. Davis, Chair

Joseph H. Maroon, Director