

**Agricultural Best Management Program Technical Advisory Committee
Programmatic Subcommittee
August 30, 2022; 10:00 a.m.
Central High School Cultural and Educational Complex; Goochland**

Call to Order Sara Bottenfield DCR Ag Incentives Program Manager
Quorum was established with 13 voting members
Self-Introductions of attendees

Voting Members Present:

Sara Bottenfield, Chair, DCR
Brad Copenhaver, Virginia Agribusiness Council
Brandon Dillistin, Northern Neck SWCD
Carrie Swanson, Virginia Cooperative Extension
Charles Newton, Shenandoah Valley SWCD
Dana Gochenour, Lord Fairfax SWCD
Kendall Dellinger (proxy for Greg Wichelns), Culpeper SWCD
Luke Longanecker, Virginia Association of Conservation District Employees
Zach Jacobs (proxy for Martha Moore), Virginia Farm Bureau
Matt Kowalski, Chesapeake Bay Foundation
Melissa Allen, John Marshall SWCD
Sharon Conner, Hanover-Caroline SWCD
Steven Meeks, Virginia Association of SWCDs

Voting Members Not Present:

Adrienne Kotula, Chesapeake Bay Commission
Ricky Rash, Piedmont SWCD (written comments attached)

Non-Voting Members Present:

Blair Gordon, DCR
Debbie Cross, DCR
James Martin, DCR
Stu Blankenship, DCR

Sara set the agenda: 1P, 3P, 5P, 6P, 7P and 4P

1P-Task: *The Board directs the AgBMP Technical Advisory Committee to review the methodology associated with the participant cap to determine if there should be additional considerations taken into account such as a sliding scale for acreage under production, the number of counties or Districts a producer is operating in, and any other considerations that the TAC may determine are worthwhile to examine. The increase in the participant cap to \$300,000 shall be reduced to \$200,000 for FY2024 if the AgBMP TAC does not provide a new recommendation and the Board takes no further action extending the increase in the participant cap through FY2024.*

Committee recommends that for PY24 VACS maintain a \$300,000 participant cap and not revert back to \$200,000 and to revisit the methodology of cap for PY25 (after the \$300,000 cap is evaluated and the variance process is put in place).

Motion: Charles Newton, second Matt Kowalski

Vote: Yay: 12 Nay: 0 Abstain: 1.

Committee also supported expanding Variance eligibility to more BMPs, and allow groups of practices be submitted for variance approval (structural & agronomic could be submitted in one variance request) but to allow DCR to recommend the process for approving variances for agronomic practices if it were to be different than the current variance process. Consensus for DCR to pursue.

Discussion: The committee had a lengthy discussion about increased or no participant cap, pros and cons. Options like sliding scale, acreages, district caps, participant cap, expanding variance process to include agronomic practices were discussed. Some of the main points were:

- Sliding scale and acreages not practical and too complicated and cumbersome, plus the CAS could not accommodate it readily. Not supported by committee
- Allow each SWCD to set their own participant caps: Some SWCDs uncomfortable setting their own caps and prefer the state set the caps.
- Group practices as a suite of similar practices (agronomic, watering systems, animal waste...) and have caps for each suite, but that seemed unwieldy and complicated.
- No participant caps, and why limit participation when the 2025 deadlines loom, but that seems fiduciary irresponsible for tax payer's funds and then when funds become limited again in the future bringing the caps back into the program may be difficult. And what happens after 2025 and cost share dries up the cover crops will need to maintain at that higher level to be counted in the CB model since these are annual practices.
- Make all practices eligible for a variance and thus if there were large agronomic producers over the \$300 cap those could be submitted for a variance. This idea got a lot of support.
- Allow WFA to address agronomic signup over present cap of \$300,000
- The incentive is to implement cover crop and educate participants to adopt management systems but VACS program was never intended to provide long term payment for cover crops forever.
- While cover crops have much value to include soil quality, carbon sequestration, erosion control, efficiencies should be looked at to compare annual benefit vs the 5-10-15 year BMPs

3P- Task: *Request the addition of karst in the Glossary. Consider using the "What is Karst" Section of the Living on Karst publication located on the DCR Natural Heritage website.*

Committee supports addition of the presented definition of Karst to the glossary of the VACS manual and that all references to "karst features" be consistent throughout the manual. Definition: "A landscape occurring in areas with limestone or other soluble bedrock, characterized by features such as sinkholes, springs, sinking streams, and caves."

Motion: Dana Gochenour, second Charles Newton

Vote: Yay: 11, Nay: 2

Also supported is for SWCD technical staff to continue to concentrate on the resource concerns in the fields where the BMPs will be installed, not the geology underground.

Discussion: The committee discussed how "karst features" should be taken into consideration when planning BMPs and that a definition would help provide some guidance on what is acceptable as a "karst feature." It was also noted that the manual uses "karst features" and "karst areas" seeming interchangeably, and that it should be referenced consistently. Adding a definition to assist with consistent implementation of the program was supported by the majority of the group, the Virginia Agribusiness Council and Virginia Farm Bureau voiced concern about adding a definition that could potentially be referenced and used against farmer's in future regulatory action.

4P- Task: *Establish a policy to ensure livestock operations are observing proper stocking rates before they are allowed to apply for costly infrastructure practices (e.g., do not pay for manure*

storage/management infrastructure if the existing resource concerns can be solved by a grazing plan and proper stocking rates).

Committee recommends to table.

Motion to table: Brand Copenhaver, Second Zach Jacobs

Vote: Yay: 12, Nay: 1

Discussion: The committee discussed and felt stocking rates need to be addressed on a case by case basis by the technical staff in the planning and design process, but that it should not be required as eligibility requirement before cost share is approved. Matt Kowalski had some reservations about not properly addressing the stocking rate issue and using tax payer dollars to clean up the mess created by poor management.

5P- Task: The guidelines section of the BMP manual says that payment is based on the estimated or actual cost, whichever is less. The SL-6 suite of practices say approved or actual and the WP-4 practices say eligible or actual. This can lead to misunderstandings. Too lenient of a payment procedure can cause abuse of the program. Unnecessarily strict, complex procedures can create a deterrent to participation, especially when combined with a low cost list. The wording should be clarified to better reflect the intention of the program. Alternatively, DCR could issue a guidance document prior to the start of PY23 clarifying how payments should be calculated and how much flexibility SWCDs have.

Committee supports including consistent language in the VACS Manual whereas “payment is based on estimated or eligible actual cost whichever is less.”

Motion: Charles Newton, Second Steven Meeks

Vote: unanimously Yay: 13. Nay: 0

Discussion: The discussion on this topic was limited as all committee members agreed that a simple clarification by adding the word “eligible” to the phrase and making sure the phrase is used consistently throughout the document would address the concern.

6P-Task: Recommend allowing all DCR practices to be variance eligible based on the support of the local SWCD board and proper justification.

Committee supports expanding variance options & process which will consider agronomic practices and a combination of practices. Allow DCR to develop a process if it differs from the current process in place for structural practices.

This was discussed and supported in 1P.

7P- Task: Consider aquaculture practice for oysters. Deferred in CY2021: There was concern that oyster/aquaculture practices are not an expertise of DCR and may be more efficiently handled by other agencies assigned to this type of work in the Chesapeake Bay WIP (e.g. VMRC, VDACS). While there are available Model credits for oyster/aquaculture, at the time of the meeting it remained unclear what and how much credit DCR would garner through development of such practices. Members disagreed over whether the item was worth pursuing, with some believing every available reduction should be pursued and others believing that such practices would not apply to many agricultural producers and may exceed the VACS Program purview. VACS eligibility requirements would likely have to be revised to allow for this. DCR made clear that if the TAC pursued oyster practices, it would be a multi-year process at least. No new oyster practices would be rolled out before Program Year 2024 or 2025 due to the amount of work that would have to go into this, if the TAC and Board even approved it at some point in the future.

Committee supports Tabling**Motion to Table: Matt Kowalski, second Dana Gochenour.****Vote: Yay: 13, Nay: 0**

VDACS has a grant program that covers aquaculture. Adding oysters to VACS would be duplicative.

Closing comments:

Next meeting of the committee will be on Sept. 20, 2022, at the Department of Forestry training room in Charlottesville from 10 am – 3 pm. During that meeting, the committee will discuss item 2P and will continue to discuss item 6P.

Adjourn 2:09 pm**Written Comments Submitted by Piedmont SWCD**

1P Support change in participant cap to \$200,000 for PY2024

2P No Support; Poultry and other animal operations (especially those that are permitted) should not utilize cost share for ‘planning’ new facilities. We support current guidance that states the water quality problem exists before cost share approval. We suggest that beyond FY2025, the TAC consider incentives or other assistance aimed at producers who are new farmers if they are pursuing an operation that may potentially cause runoff.

3P Support; The Dept of Mines, Minerals and Energy and/or the State Geologist should be able to provide maps of karst areas.

4P Support; Grazing plans and other tools are available and should be utilized. If a grazing plan is not feasible, then recommendations from the state engineer would be required.

5P Ensure all language regarding cost share payment calculations is consistent. We support the language “payment is based on the ‘approved’ estimated or actual cost, whichever is less”. Proper planning and communication with the producer will ensure that the Estimated Cost is a realistic figure. This does not cause any strict or complex procedures for a producer.

6P No Support; There is already a variance process in place for structural practices

7P More information is needed; What types of BMPS are being considered for an aquaculture oyster operation? The VACS program is directed at non-point source pollution, i.e. runoff from land. Need clarification on the issue with aquaculture.

Submitted by Ricky Rash, Deanna Fehrer