

Stormwater Stakeholder Advisory Group (SAG)

November 20, 2015

Draft Meeting Notes

Location: DEQ Central Office
2nd Floor Conference Rooms B&C
629 E. Main Street, Richmond, VA

Start: 10:07 a.m.
End: 2:27 p.m.

SAG Members Present:

Jim Filson, Dewberry
Michael L. Toalson, HBAV
Philip F. Abraham, VACRE
Bart Thrasher, VDOT
Peggy F. Sanner, Chesapeake Bay Foundation
Rick Parrish, formerly SELC/concerned citizen
Larry J. Land, VACO
Lewie Lawrence, MPPDC

Jimmy Edmonds, Loudoun County
Whitney Katchmark, HRPDC
Austin R. Mitchell, Amherst County
Adrienne Kotula, James River Association
Elizabeth A. Andrews, DEQ
James Golden, DEQ
Melanie Davenport, DEQ

SAG Members Absent:

Ann Germain, Paciulli Simmons Associates
Douglas Beisch, Stantec
L. Eldon James, Jr., Rappahannock River

Chris Pomeroy, Aqua Law
Katie Frazier, Va. Agribusiness Council
Joe Lerch, VML

Facilitator: Mark Rubin, VCU

Recorder: Debra Harris, DEQ

Guests and Public Attendees:

David Nunnally, Caroline County
Vivian Giles, Cumberland County
Shannon Varner, Troutman Sanders
Ann Jennings, Chesapeake Bay Commission
Marty Forbes, DLS
Ginny Snead, Louis Berger

John Woodburn, Goochland County
Jack Miller, Middlesex County
Barbara Brumbraugh, City of Chesapeake
Carla Pool, DEQ
Fred Cunningham, DEQ
Drew Hammond, DEQ

I. Agenda Item: Welcome and Introductions

Discussion: Mark Rubin welcomed everyone to the November 20th meeting of the SAG¹ and asked each attendee to provide a short introduction. After the introductions, Mr. Rubin provided a brief overview of the agenda for the day.

II. Agenda Item: Review of Minutes

Discussion: The SAG was asked to review the past meeting minutes and if they had any comments, to send them to Debra Harris by Noon on next Tuesday.

III. Agenda Item: Discussion of Other Comments – Training

Discussion: Elizabeth Andrews noted that the DEQ had received comments from some of the SAG members (Note, after the 10/19/15 meeting, the SAG was asked to provide their comments on the draft of the VESMA by 11/5/15). A few did submit comments and those comments will need to be discussed.

Comments on the VESMA's training section, 15:30, were submitted. One comment requested that holding a P.E. should meet the criteria for the certification for plan reviewer for the SWM program. However, during the discussion, the comment was clarified and it was noted for a third party P.E. who is preparing and submitting a SWM plan to the authority, a certification as a plan reviewer is not required. Only those persons that work for the locality and review plans or that are contractors hired to perform the plan review on behalf of the locality are required to be certified plan reviewers. Language was added to the training section in subsection C to clarify this issue (see Attachment C).

¹ See Attachment A for Acronym Definitions.

IV. Agenda Item: Discussion of Other Comments - 15:64 Aggrieved Owner Process

Discussion: Peggy Sanner provided a handout (see Attachment B) on the process for an aggrieved land owner may use regarding violations from a land-disturbing activity. The SAG considered the issue and recommended that the process be kept only for ESC activities and that the compliant shall first go to the locality. This will be added to the VESMA where appropriate and the process clarified as the SAG recommended.

V. Agenda Item: Discussion of Other Comments – Opt-Out

Discussion: Ms. Andrews provided an overview of the proposed changes to the article in order to add VESMP opt-out provisions and keep the VESCP provisions for these opt-outs (see Attachment B). The SAG discussed this language. The SAG was okay with this concept but noted that the language needs to be reworked to insure the appropriate authorities for the opt-outs and, some noted that it may be best to keep the ESCL. During the discussion, it was noted that the opt-out provision does not address the donut-hole for localities that choose to keep their opt-out status. This is correct; as the opt-in lite provisions were the way to deal with the donut-hole issue. The opt-out provisions will be further reviewed for clarification and will be incorporated into the draft of the articles that will be sent to the SAG. The proposed opt-out language will retain the status quo for the VESCPs and also keep the ESCL penalties as they are today (15:73).

The SAG broke for lunch from 12:15 p.m. until 1:25 p.m.

VI. Agenda Item: Nutrient Credits 15:35

Discussion: Ms. Andrews provided a brief overview of the comments received on 15:35 (see Attachment B). Those that commented were asked to further explain their issues. One concern is localities being required to allow use of off-site options. It was noted that the changes made by the NWG were to clarify how credits/off-site options are used and to remove the conflict between credits and TMDLs. The SAG noted that this section needs further revision. This effort will be accomplished by Chris Pomeroy with assistance from Shannon Varner and in coordination with Whitney Katchmark and Fred Cunningham. Once completed, the new revisions will be sent to the SAG for their review.

III. Agenda Item: Now What?

Discussion: Mr. Rubin asked the SAG how they felt conceptually with the proposal (noting that there is the understanding that reading of the draft is needed prior to any full consensus). Mr. Rubin also remarked that this effort has addressed the “who” aspect of the program and the “what” will likely require further discussion. There is still concern about the donut-hole issue but that will likely be a topic for discussion by a new group. Mr. Rubin then asked if there is anyone that cannot live with this concept. The SAG noted that conceptually they were okay. A draft of the revised articles will be sent to the SAG on Monday, 11/30. The SAG was asked that if there are issues noted to please send their comments to Ms. Harris by 12/7/15.

Mr. Rubin thanked the SAG for everyone’s hard work and the meeting was adjourned.

Attachment A List of Acronyms

Acronyms:

ACOE – Army Corps of Engineers
BMPs – Best Management Practices
CBPA – Chesapeake Bay Preservation Act
CWA – the Federal Clean Water Act
DEQ – Department of Environmental Quality
DPOR - Department of Professional and Occupational Regulation
ESC – erosion and sedimentation control
ESCL – Erosion and Sedimentation Control Law
EWG – Enforcement Work Group (a subgroup of the SAG)
IWG – Implementation Work Group (a subgroup of the SAG)
LDA – land disturbing activity
NWG – Nutrient Trading Work Group (a subgroup of the SAG)
RLD – Responsible Land Disturber
SAG – Stormwater Stakeholder Advisory Group
SWCB – State Water Control Board
SWCL – State Water Control Law (in this context the term normally refers to the general provisions)
SWMA – Stormwater Management Act
VESCO – Virginia Erosion and Sediment Control Program
VESMA – Virginia Erosion and Stormwater Management Act (proposed act to consolidate the SWMA and the ESC)
VESMP – Virginia Erosion and Stormwater Management Program (proposed consolidation of the VESCO and VSMP)
VPDES - Virginia Pollutant Discharge Elimination System
VSMP – Virginia Stormwater Management Program
WWG – Wordsmithing Work Group (a subgroup of the SAG)

Attachment B Handouts



Agenda



SAG Comments on
VESMA



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Attachment C
SAG Notes/Comments



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