

## **Virginia Stormwater Best Management Practice (BMP) Clearinghouse Committee Meeting**

Henrico Training Center

7701 E. Parham Road, Henrico, VA 23294

October 29, 2014

Meeting minutes by Jane Walker

### **Committee Members Present**

Danielle Bishop, City of Roanoke

Fred Cunningham, Virginia Department of Environmental Quality (DEQ), Committee Chair

Chuck Dietz, Virginia Tech

Normand Goulet, Northern Virginia Regional Commission

Greg Johnson, City of Virginia Beach

Roy Mills, Virginia Department of Transportation (VDOT)

Scott Perry, Imbrium Systems

Colleen Rizzi, Loudoun Water

Richard Stanford, ATR Associates, Inc.

Brian Stokes, Campbell County

Jenny Tribo, Hampton Roads Planning District Commission (HRPDC)

### **Agency Staff Present**

Robert Cooper, DEQ

Melanie Davenport, DEQ

### **Contracted Administrative Personnel Present**

Jane Walker, Virginia Water Resources Research Center (VWRRC)

### **Others Present**

Ernie Carrasco, Rinker Materials

Aimee Connerton, Rinker Materials

Steve Curtis, Luck Stone

Tom Fitzpatrick, Modular Wetlands

Chris French, Contech

Richard Jacobs, Virginia Association of Soil and Water Conservation Districts (alternate for

Mary Johnson)/ Culpeper SWCD

Barrett Hardiman, Luck Companies

Chris Kuhn, Stantec

Chuck Lacey, ADS

Lisa Lemont, Hydro International

Hessam Nabavi, Virginia Ready-Mixed Concrete Association

Norman Rainer, Dynaphore, Inc.

David Sample, Virginia Tech: Biological Systems Engineering/Virginia Cooperative Extension

Cory Simonpietri, ACF Environmental

Terry Siviter, Rotondo Environmental Solutions

Ginny Snead, Louis Berger

Jill Sunderland, HRPDC

### **Call to Order**

Fred Cunningham of DEQ called the meeting to order and introduced the meeting agenda. Jane Walker of the VWRRC asked everyone to sign in to record the attendance.

### **Update: DEQ Stormwater Program**

*Construction General Permit:* Mr. Cunningham provided statistics related to DEQ's approval of sites under the construction general permit between April and August 2014 (Table 1). In addition, he added that the agency has 100-150 reviews currently pending, i.e., DEQ has received either a check or registration statement; both are needed for coverage.

Table 1. Approximate number of construction general permits awarded by DEQ.

<b>Time Period</b>	<b>Type of Coverage</b>	<b>Approx. # of Sites</b>	<b>Permit Type</b>
April-August 2014	First-time coverage	2,600	2009 permit
April-August 2014	Reissuance	4,100	2014 permit
April-August 2014	First-time coverage	160	2014 permit

DEQ's Melanie Davenport commented that the administrative aspect of processing so many permits in such a short time was difficult. DEQ is using and modifying a database designed to improve the administrative aspects by marrying the checks and registration statements. Mr. Cunningham stated that the database went live just before July 1, 2014 and is the means by which DEQ processes and terminates permits. Currently, DEQ processes transfers and modifications, but the system will soon be modified so authorized localities will be able to perform these tasks.

*Payment to Localities:* Mr. Cunningham explained that DEQ is providing checks to Virginia Stormwater Management Program (VSMP) authorities for the local portion of fees received for reissuances. DEQ is providing information to the local governments for confirmation, and once confirmed, DEQ will send a check. DEQ has a target of providing all payments to VSMP authorities by January 1, 2015.

*Plan Reviews:* DEQ serves as the VSMP authority for some localities. Thus far, the agency has received about 70 stormwater management plans for review and has approved eight of them. Plans are to be submitted to Mr. Larry Gavan in DEQ's central office (804-698-4040; [larry.gavan@deq.virginia.gov](mailto:larry.gavan@deq.virginia.gov)). Although the review process is being coordinated through the central office, reviews may be conducted by staff in the regional offices.

*VSMP Authorities:* Mr. Cunningham stated that there are a handful of localities with provisional VSMP approval. Finalization of these approvals is expected in the next few months.

### **Interim Guidance: Stormwater Manufactured Treatment Devices (MTDs) to Meet Virginia Stormwater Management Program (VSMP) Technical Criteria, Part IIB Water Quality Design Requirements**

Robert Cooper announced that 23 manufactured treatment devices (MTDs) have been listed on the Virginia Stormwater BMP Clearinghouse website for use to meet technical criteria, Part IIB

water quality design requirements. Thirteen of the MTDs are hydrodynamic separators (HDS), nine are filters, and one is a manufactured bioretention system. The total phosphorus removal credit awarded to the MTDs ranges from 20% to 50%. In accordance with the guidance document, a cap of 50% has been set during the interim period.

Mr. Cooper requested feedback on the interim guidance and the MTDs listed. A representative of a product that can be used to remove metals suggested that Mr. Cooper look at the evaluation process used by California and consider assessing products for copper and zinc removal, etc.

Another representative of a MTD asked if there is a way to establish an efficiency rating without having data, citing that the costs associated with monitoring are expensive. Mr. Cooper stated he could see no way to assess a MTD without having testing data under the current framework.

In response to a question, Mr. Cunningham explained that projects that fall under Part IIC (9VAC25-870-96) can use MTDs listed in the 1999 Stormwater Handbook as well as those available on the BMP Clearinghouse website.

DEQ is aware that some states include sizing information in their approval letters. Mr. Cooper asked for suggested strategies for how Virginia could develop sizing criteria to ensure that installed MTDs are sized properly. Some offered that to address sizing, maintenance data is needed from field sites. A representative of a MTD stated that if sizing criteria are required, the approval process needs to require particle-size distribution information. He also stated that sizing should be based off field studies. A different representative of a MTD disagreed, stating that no two sites behave in the same way. Two committee members suggested that DEQ not address sizing during the interim phase, but instead wait until developing the next phase to address it. Some MTD representatives voiced support for developing sizing criteria immediately – citing that rates need to be tied to the approval process or there will be abuse of the system.

It was stated that discussions on sizing to date have not taken into account the behavior of new media. Thus, it was suggested that criteria should be developed in the next phase that is flexible enough to handle evolving technologies. Ms. Davenport reminded the group that flexibility and regulations do not go hand-in-hand. A committee member suggested that during the next phase, DEQ could develop a “gold standard” as a goal for the developers of BMPs to aim in an effort to encourage innovation.

It was suggested that DEQ post information it has on the MTDs listed on the BMP Clearinghouse website. A committee member suggested that DEQ summarize the information in tables. Mr. Cooper explained that given his numerous job responsibilities, he does not have the time to summarize the information. A different individual suggested that the reports could be posted as submitted. Mr. Cooper offered that it has been suggested by others to set up a FTP site where all reports could be posted.

Based on the discussions at the meeting, there was general agreement to leave the interim guidance as it is during this period (until July 1, 2015 or so). The issues mentioned are all important and need to be addressed during the next phase of the process. It was suggested as an

interim step, DEQ could require a manufacturer's engineer to write a letter for each system stating that the device is designed according to the manufacturer's specifications.

*Runoff Reduction Spreadsheet:*

Mr. Cooper offered that the runoff reduction spreadsheet is being reviewed and modified by DEQ. For example, changes have been made so that it now allows for the use of treatment trains. The modified version is currently being beta tested. A January 1, 2015 release date of the modified spreadsheet is anticipated. A committee member expressed concern that the spreadsheet, which was developed over several years and reviewed by many, was being modified by a few individuals at DEQ. He cautioned against making too many changes to the keystone of the stormwater management program and wondered if regulatory consequences could result if significant changes are made. For example, he wondered how the spreadsheet handles the law of diminishing returns for treatment trains. Mr. Cooper explained that the modified version is being reviewed by personnel with the Center for Watershed Protection (which originally developed the spreadsheet), Stantec, DEQ regional offices, and others. The committee member suggested that the BMP Clearinghouse Committee members and others may want to review the modified spreadsheet.

Someone commented that DEQ seems to be trying to address two separate issues: making corrections and making improvements. He proposed that the agency may want to fix the corrections and get that version out as soon as possible. He suggested that the improvements be beta tested and have a later release date. A request was made for documentation on the changes made to the spreadsheet.

In response to a question, Mr. Cooper explained that the treatment train aspect of the spreadsheet does not allow a user to get higher efficiencies by using multiple hydrodynamic separators in a row. He offered to check if it would be possible to get higher than 50% efficiency removal rating for filtering MTDs operating in a treatment train.

Another representative of a MTD offered that at past meetings of the group, there were discussions about having three different categories: HDS, filters, and manufactured bioretention. He stated that the BMP Clearinghouse website only lists two categories: HDS and filters. At this time, manufactured bioretention practices are receiving the same amount of removal efficiency as are filters. He suggested that DEQ consider granting higher removal rates to manufactured bioretention devices as a way to incentivize the use of this green practice. He stated his understanding that the objective of the runoff reduction method is to encourage the use of green practices. Mr. Cooper and Mr. Cunningham stated that during the interim period, the agency plans to keep the cap at 50%.

**Final Guidance: Stormwater MTDs to Meet VSMP Technical Criteria, Part IIB Water Quality Design Requirements**

Mr. Cunningham stated that DEQ staff has not yet begun working on developing a final guidance document. He added that the agency will start looking into it shortly.

Mr. Cunningham stated that a national initiation to establish an assessment process is under development. A committee member stated that based on the meetings he has attended,

development of a national assessment protocol is *at least* three years away. A representative of a MTD stated that he serves on the committee working to develop a national protocol and encouraged DEQ staff to write a letter of support for it if so inclined.

A committee member asked if the next process is to move forward with the Virginia Technology Assessment Protocol (VTAP). Ms. Davenport explained that a protocol that sets out requirements would need to be regulation. Given the Virginia Administrative Process Act (APA) – which sets out the stages of the regulatory process, including notice, public participation, and comment periods – the development of regulations takes *at least* 24 months. Therefore, instead of developing regulations, DEQ would prefer to use guidance to stipulate the means by which it will assess BMPs. Guidance is the agency’s articulation of a process and procedure. DEQ does not require that steps in the guidance be followed, but if applicants follow the procedures set out in the guidance, they will know how DEQ will respond. Special case-by-case evaluations are allowed under guidance.

Mr. Cunningham suggested that at the next BMP Clearinghouse Committee meeting, participants of the meeting (members and nonmembers alike) should be prepared to provide their ideas for going forward with a final guidance document.

### **Role of VWRRC**

Mr. Cunningham stated that DEQ and Virginia Tech are in the process of establishing a contract whereby the VWRRC will provide assistance to DEQ with the following activities:

- Streamlining the BMP Clearinghouse website to make it more user-friendly.
- Editing the 2013 version of the design specifications for the 15 approved non-proprietary BMPs.
- Editing the second edition of the Virginia Stormwater Management Handbook (will also likely request help from the BMP Clearinghouse Committee on this project).
- Hosting a stormwater management listserv for DEQ.
- Facilitating BMP Clearinghouse Committee meetings and activities.

### **Role of Stormwater BMP Clearinghouse Committee**

Mr. Cunningham stated that the agency sees the importance of the BMP Clearinghouse Committee as a sounding board and as a means to obtain input. It also serves as a way for DEQ to let the interested public know where DEQ is heading. He acknowledged that the agency needs to fill seats on the Committee and needs to review the Committee Charter. He stated that meetings would continue to be open to the public so that all can provide input.

A committee member responded that he sees the BMP Clearinghouse Committee meetings as a bridge for information exchange and finds great value in having the opportunity to meet with DEQ personnel. Other members expressed being glad that the committee activities will continue and stated that a primary role of the committee is to encourage innovation statewide.

### **Other Comments**

An individual asked if there would be a way to provide input on the standards and specifications for pervious pavers. He wondered if a draft of the updated version would be posted on the website for input. Mr. Cunningham indicated that comments from the public were requested in

June 2013. The agency needs to reexamine the document, but the process for finalizing it is not yet in place. Mr. Cunningham is unsure whether or not DEQ will post the updated draft version for additional comments. He noted that the 2013 documents are not yet final.

In response to a question, Mr. Cunningham explained that once finalized, DEQ cannot require the use of the latest version of the standards and specifications, unless the regulations are changed. At this time, the 2011 version will still be allowed to be used, but DEQ will encourage the use of the latest version.

**Next Meeting Date**

The next meeting is scheduled for January 28, 2015 at the Henrico Training Center.

**Adjournment**

With no further business, the meeting was adjourned.