

**Chesapeake Bay Local Assistance Board
Board Retreat
Thursday, November 17, 2004
Westmoreland State Park, Montross, Virginia**

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chair
William E. Duncanson
Gale A. Roberts

David L. Bulova
David C. Froggatt, Jr.
Walter J. Sheffield

Chesapeake Bay Local Assistance Board Members Not Present

Sue H. Fitz-Hugh
Michael V. Rodriguez

Beverly D. Harper

Staff

Joseph H. Maroon, Director, Department of Conservation and Recreation
Roger Chaffe, Office of the Attorney General
C. Scott Crafton, Director, Division of Chesapeake Bay Local Assistance
Martha Little, Chief of Environmental Planning
Shawn Smith, Principal Planner
Ryan Link, Principal Environmental Planner
Heather Mackey, Principal Environmental Planner
Beth Baldwin, Senior Environmental Planner
Brad Belo, Senior Environmental Planner
Nancy Miller, Senior Environmental Planner
Michael R. Fletcher, Director of Development

History and Overview of Program

Mr. Davis called the meeting to order and welcomed members and staff. He recognized Mr. Maroon.

Mr. Maroon introduced Scott Flickinger, District Manager who gave an overview of Westmoreland State Park.

Mr. Davis turned the meeting over to staff for presentations.

Ms. Little gave a presentation regarding the History and Background of the program.

- 1986-87 Chesapeake Bay Land Use Roundtable. Composed of farmers, industrialists, developers, local government officials, environmentalists and citizen activists.
- Charge: Evaluate and reach consensus on actions Virginia needed to take to reduce the impact of nonpoint source pollution on water quality of Bay and its tributaries.
- Recommendation: New legislation and an independent Board and Agency (CBLAD) to implement the legislation.
- Action: Legislation introduced by Delegate Tayloe Murphy and Senator Joseph Garland, Bay Preservation Act was Governor Baliles signature legislation of the 1988 General Assembly Session.

- The Bay Act flowed from:
 - Article IX of the Virginia Constitution: "...to protect its atmosphere, lands, and waters from pollution, impairment, or destruction.
 - The Public Trust Doctrine or Law of the Commons which holds that if each user of a finite resource follows his natural tendency to maximize his benefit from that resource, the combined effect of these individual and seemingly rational actions, will destroy the resource. Thus, we agree to restraints on our freedom of action in the form of laws and regulations, so that we can continue to enjoy the benefits of our natural resources. This principle is unbending, and the failure to heed it will lead sooner or later to the destruction of the commons
 - The 1987 Chesapeake Bay Agreement, which established target reductions of Nitrogen and Phosphorus to the Bay, recognizing that all uses of land must be addressed.

Premise of the Chesapeake Bay Preservation Act

- Land can be use and developed in ways that minimize the impact on water quality.

Purpose of the Chesapeake Bay Preservation Act

- Establish a cooperative program between State and Local governments aimed at reducing nonpoint source pollution.
- Designed to improve water quality in the Chesapeake Bay and its tributaries by requiring wise resource management practices in the use and development of environmentally sensitive land features.

Statutory Authority

- 1988 Chesapeake Bay Preservation Act.
- September 20, 1989 Chesapeake Bay Preservation Area Designation and Management Regulations; amended in 1991.

Local Programs In Virginia

- 84 localities in Tidewater
- Section 10.1-2110 of the Act gives local governments outside Tidewater, Virginia the authority to adopt the provisions of the Act and Regulations

Local Program Development

- The Regulations establish the framework for local programs.
- Local governments have the flexibility to develop programs that reflect their unique local characteristics and that embody other community goals.
- The Board has staged program compliance according to three phases: Phase I, Phase II, and Phase III.

Division Organization

- Acting Division Director
- 10 FTEs in Planning Assistance and 2 FTEs in Administration.
- 8 Planners that perform duties of Liaisons to 84 local governments.
- Liaison network organized through regional PDC areas.

Planning Assistance

All 8 Local Government Liaisons Do:

- Day-to-Day technical assistance to localities and citizens.
- Site plan reviews and site visits, as requested.
- Local ordinance/comprehensive plan and compliance review/assistance.
- Guidance/policy Development
- Training local staff and elected officials about Bay Act program and requirements.

Chesapeake Bay Watershed

- 64,000 sq. mile watershed
- > 100,000 streams and rivers
- 100,000 miles of rivers and streams
- 50% of streamside forests removed/severely impaired

Resource Protection Area Buffers

One of the key requirements of the local ordinances is the Resource Protection Area buffer – a 100-foot wide area of undisturbed vegetation, ideally forested, along all shorelines and tidal wetlands and many streams and nontidal wetlands. The Bay Act regulations require buffers for most new development – few localities outside Tidewater have such requirements.

Primary Vegetative Buffer Values

- Water Quality Protection/Remediation
 - Surface water runoff
 - Groundwater drainage
- Erosion Control
 - Upland
 - In-stream
- Wildlife Habitat Enhancement
 - Upland
 - In-stream
- Economic Value
 - Lumber/pulp products
 - Firewood
 - Forage/hay
 - Nuts/fruits

Common Causes of Pollutants

Rural Areas

- Thermal Stress
- Sediment
- Pathogens
- Nutrients
- Pesticides

Urban Areas

- Sediment
- Pathogens
- Nutrients
- Heavy Metals
- Petroleum Products
- Road Salt
- Thermal Stress

Riparian Vegetation Buffer Processes that Reduce Contaminant Loadings

- Shading (lowers temperature, which can improve DO levels)
- Hydrologic Alteration
- Sedimentation
- Soil Formation

- Plant Uptake
- Dentrification

Riparian Vegetation Buffer Processes that Reduce Nutrient Loadings

- Sedimentation (captures attached phosphorus)
- Soil Formation
- Plant Uptake
- Dentrification

Riparian Buffer Defined

- Land existing adjacent to or near body of water that directly affects or is affected by the water
- Area managed to reduce impacts of an adjacent land use

Success in enhancing riparian vegetative buffers will depend as much as on cultivating a stewardship ethic among landowners and “stakeholders” as it will on planting trees, shrubs and grasses.

Ms. Smith gave the following presentation on RPAs and RMAs.

RPAs and RMAs Permitted Development in RPAs Nonconforming Structures

- CBPAs – Resource projection Area and Resource Management Area.
- RPAs – Lands at or near the shoreline that have an intrinsic water quality value
- RMAs – Lands that if improperly used or developed have potential for causing water quality degradation or for diminishing the functional value of the RPA.

Resource Protection Areas

- **RPAS =**
 - Tidal wetlands
 - Nontidal wetlands connected by surface flow and contiguous to the tidal basin wetlands or water bodies with perennial flow
 - Tidal shores
 - Other lands
 - A buffer area of not less than 100 feet in width landward of these features and situated along both sides of any water body with perennial flow.

100 Foot Buffer Area

- A 100 foot vegetated buffer area shall be retained if present and established where it does not exist. (9 VAC 10-20-130.3)
- To minimize the adverse effects of human activities on the other components of the Resource Protection Area, state waters, and aquatic life. (9 VAC 10-20-130.3)

Buffer Modification

- Trees may be pruned or removed to provide for sight lines and vistas – must be replaced with other vegetation that is equally effective [VAC 10-20-130.5 a(1)]
- Paths shall be constructed and surfaced to control erosion. [9 VAC 10-20-130.5a (2)]
- Dead, diseased or dying trees and noxious weeds may be removed. Thinning of trees is permitted when done in accordance with sound horticultural practices. [9 VAC 10-20-130.5.a(3)]
- Trees and vegetation may be removed for shoreline erosion control projects [9 VAC 10-20-130.5.a(4)]

Permitted Uses in RPA

- **Water dependent facilities:** Including ports, the intake and outfall structures of power plants, marinas and other boat docking structures, beaches and fisheries.
 - Not conflict with comprehensive plan
 - Complies with performance criteria
 - Non water dependent component is located outside of RPA
 - Access is minimum necessary, single point where practicable
- **Redevelopment on isolated redevelopment areas**
 - No further encroachment into RPA
 - No increase in impervious cover in RPA
 - Meets erosion and sediment and stormwater requirements
- **Development and redevelopment in IDAs**
- **Private roads and drives:**
 - No reasonable alternatives
 - Minimal encroachment in RPA and impacts to water quality
 - WQIA is submitted
 - Reviewed in coordination with local site plan, subdivision and plan of development reviews
- **Flood control and Stormwater BMPs**
 - Location is optimum location
 - Size is minimum necessary
 - CBLAB approved SWM program
 - Applicable state and federal permits obtained

- Local approval prior to construction
- Routine maintenance is allowed

Exceptions

- **RPA Exceptions may be granted provided:**
 - Approved through public process by local body
 - Public hearing
 - Public notice
 - WQIA required
 - Five findings required

Required Findings

- Minimum necessary to afford relief;
- Will not confer special privileges;
- In harmony with purpose of Regulations and not of substantial detriment to water quality;
- Not based on self-created or self imposed-conditions;
- Reasonable and appropriate conditions are imposed.

Exceptions

- RPA Exceptions are required for:
 - Redevelopment in RPAs outside IDAs that would expand impervious and encroach further in RPA;
 - Non water dependent portions of water dependent facilities in RPA;
 - Any new or expanded accessory structure in RPA;
 - Encroachments into the seaward 50 feet on lots recorded before March 1, 2002 or October 1, 1989 (local discretion on date);
 - Stormwater BMPs where the Board has not approved a comprehensive Bay Act Stormwater program.

Nonconforming Structures

- Existing structures in RPA
 - May continue to exist
 - May be remodeled if no increase in pollution and erosion and sediment control met
 - Reconstruction due to casualty loss may be permitted depending on local process
- Existing legal structures in RPA
 - May be expanded through administrative process

- Five findings required in RPA exception are necessary

Resource Management Areas

- Floodplains
- Highly erodible soils, including steep slopes
- Highly permeable soils
- Nontidal wetlands not in RPAs
- Other lands

Ms. Baldwin gave the following presentation on New Development on Pre-Bay Act Lots and 'Tweeners Lots:

New Development on Pre-Bay Act Lots and 'Tweeners Lots

Section 9 VAC 10-20-130.4 of the Regulations

4.a outlines criteria for encroachments into the buffer area on lots platted prior to October 1, 1989

4.b outlines criteria for encroachments into the buffer area on lots platted between October 1, 1989 and March 1, 2002

Lots Recorded Prior to October 1, 1989

When the application of the buffer area would result in the loss of a buildable area on a lot of parcel recorded prior to October 1, 1989, encroachments into the buffer area may be allowed through an administrative process, in accordance with the following criteria:

Required Criteria for Section 9 VAC 10-20-130.4.a

1. Encroachments into the buffer area shall be the minimum necessary to achieve a reasonable buildable area for a principal structure and necessary utilities
2. Where practicable, a vegetated area that will maximize water quality protection, mitigate the effects of the buffer encroachment, and is equal to the area of encroachment into the buffer area shall be established elsewhere on the lot or parcel
3. The encroachment may not extend into the seaward 50 feet of the buffer area

Relevant Points to Section 9 VAC 10-20-130.4.a

- Encroachments only allowed when application of the full buffer would render the lot unbuildable
- Minimum necessary for reasonable buildable area
- Only for principal structure; not an accessory one
- May Not Extend into Seward 50 feet (through this process)

Lots Recorded Between October 1, 1989 and March 1, 2002

When the application of the buffer area would result in the loss of a buildable area on a lot or parcel recorded between October 1, 1989 and March 1, 2002, encroachments into the buffer area may be allowed through an administrative process in accordance with the following criteria:

Required Criteria for Section 9 VAC 10-20-130.4.b

1. The lot or parcel was created as a result of a legal process conducted in conformity with the local government's subdivision regulations
2. Conditions or mitigation measures imposed through a previously approved exception shall be met
3. If the use of best management practice (BMP) was previously required, the BMP shall be evaluated to determine if it continues to function effectively and, if necessary, the BMP shall be reestablished or repaired and maintained as required; and
4. The criteria in subdivision 4a of this section shall be met

Relevant Points to Section 9 VAC 10-20-130.4.b

- Optional, not all localities have included this provision in their Bay Act ordinances
- Same as those for lots platted to October 1, 1989
- Lot legally created in accordance with local government's subdivision ordinance

Final Note About Section 9 VAC 10-20-130.4.a & b

- Relieves potential burden on lots platted prior to March 1, 2002 and which subsequently have been found to possess water bodies with perennial flow;
- Allows the local administrative authority to permit encroachment in the landward 50 feet of the buffer rather than having the applicant seek an exception

Compliance Evaluations and Annual Reporting

Statutory Authority for Ensuring Compliance

“Take administrative and legal actions to ensure compliance by counties, cities and towns with the provisions of this chapter including the proper enforcement and implementation of, and continual compliance with, this chapter.”

Development of Compliance Evaluation

- 1998 to 2002, policies, procedures, and checklists drafted
- Iterative process with local government representatives
- September 2002, policies, procedures, and checklists approved
- 5-year cycle

Compliance Evaluation Procedure

- Initiation letter
- Plan Review
- Site Visits
- Presentation of Staff Report to the Board
- December 2004, completion of 14 compliance evaluations
- January 2007, projected completion date of initial compliance evaluations for all 84 localities

Annual Report

“Require that each Tidewater local government submit an annual implementation report outlining the implementation of the local program...”

Purpose and Proposed Procedure of Annual Reporting

- Complement to the compliance evaluation
- Annual submission of key elements of local program, primarily development in the RPA and modifications to the buffer
- Means to identify innovative local initiatives and ongoing implementation issues
- Locally will begin submitting Annual Reports approximately one year after having undergone its first compliance evaluation

Proposed Schedule of Adoption of Annual Reporting Documents

- Winter 2004 – Finish drafting Annual reporting documents

- Early Spring 2005 – Review proposed documents with local government representatives
- 2005- Presentation to the Board Policy Committee and full Board

SIGNIFICANT ISSUES

Mr. Link gave the following presentation on Intensely Developed Areas (IDAs):

Intensely Developed Areas (IDAs)

Intent: Why Allow IDAs at all?

- IDAs represent urban areas that typically contribute a considerable amount of non-point source pollution
- Redevelopment of heavily urbanized areas can help IMPROVE water quality
- A significant step in a local government's management of an IDA is the development of a water quality improvement strategy for the IDA.

Regulatory Authority for IDAs

- Section 9 VAC 10-20-100 permits local governments to designate Intensely Developed Areas (IDAs) as overlays to both RPAs and RMAs
- IDAs are to serve as redevelopment areas in which development is concentrated as of the local program adoption rate

IDA Designation Requirements

- Under the Regulations IDAs are to be “areas of existing development and infill sites where little of the natural environment remains...”
 - Problem: Regulations do not define “little of the natural environment”
- AND at least one of the following conditions existed at the time of local program adoption:
 - More than 50% impervious surface
 - Public sewer and water systems or a constructed stormwater drainage system, or both, have been constructed (not just planned)
 - Housing density is equal to or greater than four dwelling units per acre
 - RPA designation remains in an IDA
 - Revegetation of the buffer may not be required
 - Existing vegetation in the buffer should remain
 - Locality should consider ways to establish a vegetated buffer over time

Intent – Board's Historic Interpretation

- Board has approved IDAs in at least 17 localities
- A review of approved IDAs indicates “little of the natural environment” has been historically interpreted as areas with impervious, developed/disturbed land exceeding 70 percent of an area
- The precedent has been set – IDAs are almost exclusively concentrated in industrial, commercial and mixed used areas – few if any are solely in single family residential areas

Issues – Concerns expressed by local governments

- The number of anticipated exception requests for accessory structures within densely developed urban areas exceeds local staff capacity
- The formal exception process may hamper redevelopment efforts.
- The existing buffer is not fully functional
- The home is already within the seaward 50 feet from the water

Regulatory Relief

- Expansion of existing nonconforming structures is allowed under the Regulations
- Section 9 VAC 10-20-130.4 permits new construction (through an administrative process) on pre-1989 lots as well as lots recorded between October 1, 1989 and March 1, 2002
- Section 9 VAC 10-20-150.C 4 permits the expansion of existing legal nonconforming principal structures through an administrative process
- Recognizing permitted encroachments, only requests for accessory structures in RPAs must go through formal exception process as outlined under 9 VAC 10-20-150 C 4

Problem? Is there really a Problem?

- There has been no information to substantiate the claim that there is an undue burden on staff capacity at the local level
- Since the implementation of the new Regulations very few localities have continued to express concerns
- Other localities with almost identical development history and redevelopment pressures say that it is not an issue. They have enforced Regulations appropriately from the beginning.
- The issue at hand is accessory structures.
- Long standing guidance from the Division has consistently been that accessory structures do not meet criteria to be located in the buffer.

Status

- IDA Ad Hoc Committee concluded with the agreement that DCBLA would continue to work with localities on a case by case basis.
- At the same time DCBLA would research the issues further to identify potential regulatory changes.

Conclusion

- IDAs have proved to be a practical way for dealing with intensely developed urban areas that fit within the precedent set by the Board.
- One policy question at hand is do we want to allow necessary structures in the buffer for those lots in question
- The consequence of not doing anything may mean that we lose current enforcement of buffer rules because some localities are moving forward anyhow.
- We must consider all of the program implications in all 84 localities if we choose to change the Regulations.

Mr. Belo gave the following presentation on Identifying Water Bodies with Perennial Flow:

Identifying Water Bodies with Perennial Flow

2001 Update to the Regulations

What changed?

- The phrase water body with perennial flow replaced the term “tributary streams”
- A reliable site specific evaluation requirement was added to better determine whether water bodies on or adjacent to a development site have perennial flow.

Generally Determining Whether Water Bodies Have Perennial Flow

Section 9 VAC 10-20-80D requires localities to generally map water bodies with perennial flow where:

1. perennial streams are indicated on the USGS topographical maps
2. A scientifically valid system of in-field indicators determines perennial flow

Site-Specific Refinement of RPAs (9 VAC 10-20-105)

As part of plan of development review process (9 VAC 10-20-231.1.e) or review of WQIA (9 VAC-10-20-130.6) localities are required to ensure or confirm:

1. A reliable site-specific evaluation is conducted to determine whether water bodies on or adjacent to the development site have perennial flow, and
2. RPA boundaries are adjusted as necessary on the site based on this evaluation

What type of guidance do we provide?

A Spring 2003 Ad Hoc Committee developed the “Determinations of Water Bodies with Perennial Flow” guidance document

Definition: *Water Body with Perennial Flow*

“A body of water that flows in a natural or man-made channel year-round during a year of normal precipitation. This includes, but is not limited to streams, estuaries, and tidal embayments and may include drainage ditches or channels constructed in wetlands or from former natural drainageways, which convey perennial flow. Lakes and ponds, through which a perennial stream flows, are a part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow.”

Recommended Methods for Determining Perennial Flow:

1. Field indicator protocols
2. Documented observation
3. Groundwater monitoring
4. Surface water monitoring
5. Drainage area based on sampling

The Problem

It is easier to draft regulations to protect water quality in water bodies with perennial flow than it is to determine which water bodies have perennial flow.

Don't we already know where all the perennial water bodies are?

Only Fairfax County has scientifically mapped its streams. All others depend on USGS maps!

Unfortunately...

USGS Topographical maps were never intended to accurately identify perennial/intermittent threshold

Aren't all perennial water bodies the same?

The geomorphology, hydrology, and biology that characterize perennial water bodies can differ throughout Tidewater

What if you have...?

- Disappearing streams
- Beaver ponds/flooding
- Degraded stream channels caused by bad stormwater management
- Ancient man-made channels

What about lakes and ponds?

Lakes and ponds that are not fed by perennial streams are not included as perennial features even if there is perennial outflow.

What about ditches?

Most ditches with perennial flow must be buffered by a 100 foot RPA buffer.

- Field protocols don't always fit the conditions in ditches
- Some communities have a staggering amount of ditches

What about connected and contiguous non-tidal wetlands?

Board guidance allows the exclusion of proximate non-tidal wetlands that may be hydrologically connected to perennial water bodies (e.g. wetlands separated by berms, linear wetlands adjacent and contiguous to perennial streams).

We need a lot more training!

Lack of training leads to inconsistent identification of perennial water bodies within and among neighboring jurisdictions.

Most recent efforts:

- Two-day Perennial I.D. workshop (April 2004)
- Pursuing grant money to develop comprehensive field manual for field protocols

Ms. Mackey gave the following presentation on Vested Development Rights

Vested Development Rights

What is a Vested Right?

- Investment backed expectation of a development right.
- Good faith reliance on a governmental approval.
- Diligent pursuit of development rights of substantial expense.

Land Use Law 101

- Primary Authority
 - Statute Law – legislative: Code of Virginia
 - Case Law – judicial; Circuit, Appellate or Supreme Court of Virginia decisions/opinions
- Secondary Authority
 - Attorney General opinions – consider both statute and case law

Chesapeake Bay Preservation Act

- Section 10.1-2115
 - Vested rights are protected: *“The provisions of this chapter shall not affect vested rights of any landowner under existing law.”*
- Section 15.2-2307
 - Obtain a significant governmental approval allowing development
 - Rely in good faith on the approval
 - Incurs substantial expenses in diligent pursuit of the specifically approved project.

What is a significant affirmative governmental act?

- Proffers or proffered conditions.
- Rezoning for a specific use or density
- Special exception, use permit or variance
- Preliminary subdivision plat or site plan
- Final subdivision plat or site plan

Code of Virginia

- Section 15.2-2261
 - Grants 5-year validity for recorded plats or final site plans.
 - Amendments to local ordinances adopted after governmental approval can adversely affect development rights if they are required to comply with state law.
 - Individual lots in CBPAs must comply with the Act to the greatest extent possible.

Attorney General Opinions

- 1989 – Dicks opinion: landowners with an established vested right must still comply with Bay Act requirements to the greatest extent possible.
- 1990 – Pandak opinion: lots recorded prior to October 1, 1989 have limited vested rights.
- 1991 – Watkins opinion: localities must define vested rights in a manner consistent with the Bay Acts's express requirements.

Why are vested rights an issue?

- March 1, 2002 Regulation revisions:
 - Site-specific identification of the RPA
 - RPA definition – water bodies w/ perennial flow
 - Introduced the formal exception process
 - Removal of buffer equivalency language
- Localities to adopt revisions by 12/13/03.
- Expectations of development rights.

How have localities addressed the issue of vested rights?

- Most have ignored it.
- Some have adopted complex policies.
- Some have adopted general policies.
- Others sought the middle ground.

How has the DCR-DCBLA handled vesting inquiries?

- We have provided all localities with copies of AG opinions and COV citations.
- We have responded individually to direct inquiries from local government staff.
- We have reviewed vesting policies during program review cycles.

Ms. Mackey gave the following presentation on Outreach and Education:

Outreach and Education

Global Misunderstandings...

- Too many interested parties
- Too many water quality programs
- Too many geographic compliance areas

- Where is “Tidewater Virginia?”
- What is a state/local partnership?
- What does (my community) have to do with the Chesapeake Bay?

Bay Act program specific misunderstandings...

- Phase I, Phase II, back to Phase I...?
- You can't do anything in the RPA, right?
- The buffer negatively affects property values!
- The buffer is unkempt and hides child eating snakes and other dangerous critters...
- RPA=taking without just compensation
- Stormwater BMPs vs. land management

Why is everyone STILL so confused?

- CBLAD focused on local assistance and government compliance.
- Did not focus on the need for public education about the issues facing the Bay.
- Lack of political will to expand, strengthen or enforce the Act and Regulations.
- Merger with DCR.

So what do we do now?

- CBLAD Strategic Plan
- DCR-DCBLA needs an Outreach and Education Plan

We have a story to tell...

- About the Bay's fragility.
- About every Virginian's responsibility for the Bay's pollution and its restoration.
- About the Bay's importance to Virginia's economy and quality of life.
- About the link between sound land use planning and water quality.
- About the connection between the CBPA and the regional Chesapeake Bay Program.

Who do we need to educate?

- Legislators
- Judiciary
- Local officials
- Realtors and the business community
- Joe Homeowner and his kids

How do we accomplish the goal?

- Create and implement an O&E plan
- Work through established networks
- Develop new relationships
- Multimedia approach

Consider the possibilities...

- Expansion of planning assistance to the rest of the Chesapeake Bay watershed.
- “Ramp Up” of the Bay Act through Tributary Strategy NPS Implementation Plan.

Mr. Maroon thanked staff for the presentations. He noted that there was a lot of information for members to absorb and said that staff would be available to provide additional information as needed.

Mr. Davis said that he would like to see the Board be more pro-active in disseminating this information to the public.

Mr. Sheffield asked what the current SOLs (Standards of Learning) covered with regard to the Chesapeake Bay Act and asked that staff provide a one page report on what is being covered.

Mr. Maroon said that currently the SOLs were more geared toward the Bay in general than to the Act.

Mr. Davis said that many state legislators see the Bay Act as a problem or an impediment to constituents. He said that it would be helpful to stress the positive aspects of the Bay Act with legislators.

Mr. Maroon and Mr. Crafton gave an overview of the Regulatory Reform Process. This was followed by a general discussion of potential changes and revisions to the regulations.

Key issues identified included the following:

- The definition of “water dependent facilities” as it pertains to marinas, particularly existing marinas
- Vesting as it pertains to implementation of the Bay Act

- Clarification of standards pertaining to local designation of residential Intensely Developed Areas (IDAs), particularly to address the issue of locating accessory structures within the RPA/buffer on pre-1989 lots
- The definition of “water body with perennial flow” and incorporation of the perennial stream identification guidance
- Appropriate revisions to the stormwater management requirements to conform to the new consolidated DCR/State Stormwater Management Program

The next meeting date was confirmed for December 13 at Pocahontas State Park in Chesterfield County.

Mr. Davis thanked staff and members for attending. With no further business the meeting was adjourned.