

Technical Advisory Committee – Stream Protection Subcommittee

DCR Staunton Office
Staunton, Virginia

Stream Protection Subcommittee Members Present

Mark Hollberg, Dept. of Conservation & Recreation – Div. of Soil & Water Conservation (DCR-DSWC)
(Chair)

Charlie Wootton, Piedmont Soil & Water Conservation District

Stefanie Kitchen, VA Farm Bureau

Gary Boring, Virginia Assn. of Soil & Water Conservation Districts (VASWCD) Area IV Representative

Tom Turner, Chesapeake Bay Districts Representative

Luke Longanecker, Thomas Jefferson Soil & Water Conservation District

Robert Bradford, VASWCD Area II Representative

Elizabeth Dellinger, Shenandoah Valley Soil & Water Conservation District

Dana Gochenour, Lord Fairfax Soil & Water Conservation District (Proxy for Nick Livesay)

Matt Kowalski, Chesapeake Bay Foundation

Anna Killius, James River Association

Ashley Wendt, Department of Environmental Quality

Raleigh Coleman*, DCR-DSWC

Stream Protection Subcommittee Members Absent

David Massie, Culpeper Soil & Water Conservation District

Chad Wentz, United States Dept. of Agriculture – Natural Resources Conservation Service (USDA-NRCS)

Emily Horsley, United States Dept. of Agriculture – Farm Service Agency (USDA-FSA)

Tracy Fitzsimmons, VA Cattleman's Association

Aaron Lucas, Headwaters Soil & Water Conservation District

Tim Higgs, Virginia Department of Agriculture and Consumer Services

Chris Barbour, Outside of the Chesapeake Bay (OCB) Districts Representative

Nick Livesay, Lord Fairfax Soil & Water Conservation District

Stacy Horton*, DCR-DSWC

Public Participants Present

David Bryan*, DCR-DSWC

(*Non-voting member)

WELCOME

The subcommittee meeting began at 9:35am with an introduction from Mr. Hollberg. A quorum was established with 10 voting members present.

DRAFT MINUTES

The minutes of the August 29, 2019, meeting of the Stream Protection Subcommittee were presented for approval. A minor typographic error was corrected in the section regarding discussion of matrix item 11S. Ms. Dellinger made a motion to approve the minutes as amended. Mr. Boring seconded the motion. The motion passed unanimously (10Y, 0N).

Mr. Turner arrived at 9:40am, followed by Mr. Coleman at 9:43am and Ms. Wendt at 9:45am. A new quorum number was established at 12 voting members.

MATRIX ITEMS

The subcommittee continued discussion of three matrix items from the August 29 meeting.

9S – Expand the SL-7 practice to allow for the extension of a watering system associated with a narrow buffer. ...

Mr. Lucas's draft version of the updated SL-7 was presented for discussion. (At the August meeting, the subcommittee voted unanimously to allow narrow buffers to be eligible for the SL-7 at a 50% cost-share rate.) The revised SL-7 specification would continue to cost-share at 75% when the farm has a 35' minimum setback, and would now allow a cost-share rate of 50% with a 10'-34' setback. A narrow buffer (10') is the minimum requirement for the practice. There was some discussion regarding whether the rate should be higher since upland management is even more important when associated with a narrow buffer because the narrow buffer is not able to remove as much pollutants as a wide buffer. The group ultimately decided to leave the cost-share rate at 50% to incentivize wider buffers during initial stream exclusion projects, and the point was made that this would still be an improvement by extending the availability to narrow buffers, which were previously ineligible. Ms. Gochenour suggested removing the \$50,000 cap mentioned in the specification so that it would not be "missed" in the future so that it would automatically default to the other caps. Mr. Bryan felt that that would be a good idea. Mr. Boring made a motion to accept the revised SL-7 specification and bring it to the full TAC for discussion. Mr. Kowalski seconded the motion. The motion passed unanimously (12Y, 0N).

11S – Include 362-Diversion, 620-Underground Outlet, and 606-Subsurface Drain in the SL-11-Permanent Vegetative Cover on Critical Areas specification. ...

Ms. Dellinger presented her revised SL-11 specification to the subcommittee. Ms. Dellinger pulled from the WP-1 and WP-3 into the SL-11. She explained that a WP-1 also includes fencing, and there are times where it may be beneficial to fence out an SL-11. She said that most of the edits were under Section 4, where she recommended added NRCS standards for mulching, fencing, lined waterway/outlet, subsurface drain, and underground outlet. Ms. Dellinger reminded the group that the situation that she's trying to address is the presence of water where vegetation has a hard time growing because of the water. It would not necessarily be a waterway because the erosion is not necessarily caused by overland flow. Mr. Wootton explained that the SL-11 is typically used just for shaping and reseeding, for example, on slopes where cattle have started causing erosion and it can be restabilized with grading and seeding. If there are problems with flowing water, the practice would automatically become a WP-3 or WP-1; SL-11 is for areas of sheet flow. He expressed concerns with adding additional components to a simple, 5-year practice, and felt like a WP-1 or WP-3 could be used to handle those situations with water. Mr. Coleman suggested that if a lined waterway/outlet is needed, it would definitely be a WP-1. Ms. Dellinger pointed out that the Critical Area Planting standard references subsurface drain and underground outlet. Mr. Coleman suggested perhaps the subsurface drain and underground outlet could be added to the WP-3 specification since the grassed waterway standard also allows the

subsurface drain and underground outlet when necessary for vegetation establishment. The group discussed the fact that the “Description and Purpose” of the SL-11 is just for simple grading/seeding, and generally came to a consensus that there would be value in keeping the SL-11 generally as-is and not add the engineering components. The group discussed whether or not fencing should be added to the SL-11 specification. The group felt like it would be valuable to have the option for permanent fencing around a critical area. The group discussed whether WP-3 is required to have fencing. Mr. Coleman stated that it is not required to have permanent fencing, but the critical area planting standard requires that the area be protected from grazing animals for two growing seasons. Mr. Turner suggested that this requirement (listed in the critical area planting standard) should be added to the DCR specification for the SL-11 and WP-3 to make it clear to the technician and to give the technician more to stand on. Ms. Dellinger suggested adding several other standards to the WP-3 to make it clear those standards can be used as part of a WP-3 when necessary.

The SL-11 was edited to include 382 Fence and 484 Mulching. Language was added to specify that “Livestock must be excluded after planting for a minimum of 12 months.” Mr. Turner made a motion to approve the SL-11 as edited and pass it along to the full TAC for discussion. Mr. Boring seconded the motion. The motion passed unanimously (12Y, 0N).

The WP-3 was edited to address concerns discussed as part of the SL-11 discussion in matrix item 11S. The following standards were added to the WP-3: “342 Critical Area Planting, 382 Fence, 484 Mulching, 606 Subsurface Drain, 620 Underground Outlet. When a subsurface drain is used in conjunction with the practice, a wetlands determination shall be performed prior to the installation.” Language was added to specify that “Livestock must be excluded after planting for a minimum of 12 months.” Ms. Dellinger made a motion to accept the edited WP-3 specification and bring it to the full TAC for discussion. Mr. Longanecker seconded the motion. The motion passed unanimously (12Y, 0N).

1E – Consider making SL-6A Small Acreage Grazing System a cost-share practice in addition to being a tax credit practice.

Mr. Hollberg reminded the group that at the last meeting the subcommittee had discussed possibly making this practice cost-shareable. Ms. Dellinger asked how this was different from the SL-7 on a 10ft. setback – why should we cap the SL-7 at 50% for narrow buffers and offer a higher rate for the SL-6A? The SL-6A requires that all streams be excluded at 35ft. (minimum) but stream exclusion is not a required component. The SL-6A could theoretically be implemented on properties without any live water. Mr. Turner asked what other practices could be used to address a small acreage situation. Ms. Dellinger stated that an SL-11B (tax credit only) could be used for a sacrifice lot. Mr. Turner pointed out that if the SL-6A is made cost-shareable, the producer would then be required to meet a maximum stocking rate requirement, which would make it worthwhile from a water quality standpoint to make the SL-6A eligible for cost-share. Mr. Wootton pointed out that only outstanding managers are going to be willing to go through with the SL-6A. Mr. Bryan pointed out that the last SL-6A in the tracking program was in 2014. Mr. Longanecker stated that the SL-6A should not have a higher rate than an SL-6N, since the SL-6N involves stream exclusion, which should have a higher priority. Mr. Turner suggested making it a 50% cost-share rate since that is the lowest cost-share rate of any of the other available practices, and it would be a significant increase from only currently being eligible for tax credit. Mr. Bradford made a motion to make the SL-6A practice eligible for 50% cost share. Ms. Wendt seconded the motion. After further discussion, the group decided that the language in the SL-6A specification would need to be modified to change the language regarding “tax credit only” and remove the “Roofs and Covers” standard. The motion passed (11Y, 1N (Kowalski)). Mr. Kowalski explained that he was opposed because he felt that it is an unnecessary practice that can already be handled with other

practices, assuming that the animal waste subcommittee is coming up with a stand-alone heavy use area for cost-share.

OLD BUSINESS

SL-6W/WP-2W Buffer Bonus Limitation Note

The group discussed the buffer payment cap and how it should be applied. The guidelines for this program year only allow 10 acres of buffer payment per participant per year. Mr. Turner stated that there is a lot of benefit to break up very large projects into phases for construction management/cash flow so that there is not a tremendous out-of-pocket burden on the participant. Mr. Longanecker stated that there has to be a cap somewhere. Mr. Bryan clarified that the caps apply per fiscal year, so if you wish to phase a project, the cap applies for each fiscal year. Mr. Turner pointed out that this is guidelines, and Mr. Hollberg said that this language should be included into the practice specification. Mr. Wootton reminded the group that the distance caps (e.g., 100' from the top of streambank or 1/3 of the floodplain up to 300 feet.) had also been put in place as one control over the buffer payments, and now that the distance caps have been removed, it will be even more important to have this total acreage cap in place.

Mr. Longanecker asked, for this program year, if a participant had two separate farms in separate counties and if they could both be eligible for the maximum buffer payment. The group agreed that that would be appropriate because the contracts are not separate just to maximize the payment and the farms and physically distinct. To address this is the SL-6W/WP-2W specification, Ms. Dellinger suggested adding “per tract” to the following note to be added to the practice specification: “The Buffer Payment Cap is the maximum a participant can be paid per tract even when multiple SL-6W and/or WP-2W practices are approved in a given program year.” Mr. Wootton said that “tract” is a universally understood term for a piece of land, understood by timber harvesters, farmers, etc. Ms. Dellinger made a motion to add the note with the “per tract” reference to the SL-6W/WP-2W practice specifications and present it for discussion at the next full TAC. Ms. Wendt seconded the motion. The motion passed by exceeding the 80% threshold (10Y, 2N (Turner and Kowalski)).

LUNCH: The group broke for lunch at 12:45pm. The group reconvened at 1:20pm. *Mr. Longanecker left the meeting.*

NEW BUSINESS

SL-6/WP-2 Consistency

Mr. Kowalski presented some ideas that he worked on after the last meeting to make the SL-6 and WP-2 practice specifications more consistent. Mr. Coleman pointed out that the WP-2N/W specifically require all live streams to be fenced out, whereas the SL-6N/W does not specifically require this in the practice specification (though this is the way that it is treated). After some discussion, the group changed the WP-2N/W language in the “Description and Purpose” from “all water bodies and streams” to “all live streams.” The group also added “all” to the “Description and Purpose” of the SL-6N/W to require “all live streams” in the field to be fenced out. The group decided to remove “where there is a defined water quality problem” from the SL-6N/W “Description and Purpose” because this is true of all VACS practices and is redundant language. Mr. Turner made a motion to accept these changes and present them to the full TAC for consideration. Mr. Wootton seconded the motion. The motion passed unanimously (11Y, 0N).

Ms. Wendt left at 2:00pm.

Hay-Making in Buffers

The subcommittee continued discussion from the last meeting regarding giving producers the option to make hay, since the prohibition was seen by some as an obstacle to practice sign-up. The group could not reach a consensus and no motions were made regarding allowing a haying option. The group did discuss the fact that the language in the SL-6 and WP-2 specifications prohibits flash grazing and haying, but not cropping. The subcommittee felt that this was a “loophole” that should be closed, since cropping would be a more intensive land use than haying. Mr. Kowalski made a motion to add “The buffer must be maintained as perennial species for the practice lifespan” into the SL-6s and WP-2s with the other language prohibiting flash grazing and haying. Mr. Turner seconded the motion. The motion pass unanimously (10Y, 0N).

Eliminating Specification References to Wetlands

Mr. Hollberg explained that this was something that was brought up at the last subcommittee meeting. The subcommittee did not take any action.

RECAP

Mr. Hollberg gave a short recap of the meeting and discussed the changes that will be presented at the full TAC.

- Expanded SL-7 to narrow buffers at 50% cost-share
- Made changes to the SL-11 and WP-3 specifications
- Made the SL-6A eligible for 50% cost-share and eliminated the “Roofs & Covers” standard
- Added the buffer cap language to all SL-6 and WP-2 variants
- Made the SL-6 and WP-2 language consistent in the “Description and Purpose”
- Added the perennial species statement to all SL-6 and WP-2 variants

Mr. Kowalski pointed out that Section 5.i. of the SL-6W should be changed as follows (addition in bold): “The stream exclusion fence must be placed a minimum 35 feet, ~~up to 50 feet,~~ **or 50'** away from the stream...” Mr. Bryan agreed that this is just a clerical change that he could make in the specification for clarification purposes.

NEXT MEETINGS

Mr. Hollberg reminded the group that the next meeting Monday, October 28. This meeting will be held in the Staunton DCR office building, beginning at 9:30 am.

ADJOURN

The meeting adjourned at 2:48 pm.