

Virginia Agricultural BMP Technical Advisory Committee
GoTo Virtual Meeting
November, 4, 2020
1:00pm-4:00pm
Draft Minutes

TIME AND PLACE

The Virginia Agricultural BMP Technical Advisory Committee meeting was held virtually on Wednesday, November 4, 2020 at 1pm.

ATTENDANCE

Voting members present

David Bryan, DCR
Adrienne Kotula, Chesapeake Bay Commission
Anna Killius, James River Association
Brandon Dillistin, NNSWCD
Carrie Swanson, Virginia Cooperative Extension
Conner Miller, Virginia Grain Producers Association
Dana Gochenour, LFSWCD
Darrell Marshall, VDACS
Eric Paulson, VA State Dairymen's Association
Gary Boring, NRSWCD
Jim Riddell, Virginia Cattlemen's Association
Keith Burgess, MSWCD
Kevin Dunn, PFSWCD
Kyle Shreve, Virginia Agribusiness Council
Lisa Hyatt for Anne Coates, TJSWCD
Luke Longanecker, VACDE
Matt Kowalski, Chesapeake Bay Foundation
Megen Dalton, SVSWCD
Michael Tabor, BRSWCD
Rachel Winter, HSWCD
Ricky Rash, PSWCD
Robert Bradford, CSWCD
Sharon Conner, HCSWCD
Steven Meeks, VA Association of Soil and Water Conservation Districts
Ben Chester for Steve Escobar, Virginia Horse Council
Todd Groh, DOF
Tom Turner, JMSWCD
Tricia Mays, SSWCD
Willie Woode, NVSWCD

Voting members not present

Jay Yankey, PWSWCD
Joe Gerdes, JRSWCD
Martha Moore, Virginia Farm Bureau

Non-voting members present

Stuart Blankenship, DCR

Denney Collins, DCR
Debbie Cross, DCR
Jaclyn Friedman, DCR
Mark Hollberg, DCR
Stacy Horton, DCR
Lonnie Johnson, Virginia Cooperative Extension
Marissa Roland, DCR
Beck Stanley, VA Agribusiness Council
Kendall Tyree, VA Association of Soil and Water Conservation Districts
Christine Watlington, DCR

Meeting opening-1:00pm

WELCOME, David Bryan

Good afternoon, I would like to call this virtual meeting of the Ag BMP Technical Advisory Committee to order.

Generally, public bodies are prohibited from meeting electronically under the provisions of the Freedom of Information Act (FOIA). However, emergency language approved by the Governor and General Assembly in the 2020 Appropriations Act allows us to move forward with certain restrictions that I will outline below.

Before I review those provisions, please let me take a moment to review how this meeting will work. We want to allow for participation by TAC members, staff, and members of the public who wish to comment. However, it is essential that we are able to manage the conversation effectively.

I am chairing this meeting today; Mark Hollberg, Marissa Roland, and Christine Watlington are assisting with presentations, responding to comments, and the overall coordination of the meeting.

Please be patient with all of us as we work through this. We understand and appreciate the challenges.

Chapter 1289 of the 2020 Acts of Assembly, known as the “Budget Bill”, includes language addressing the ability of public bodies to conduct electronic meetings without the need for a quorum being present in a single physical location (“Electronic Meeting”).

This language was submitted as an amendment by the Governor and approved by the General Assembly at their April 22, 2020 reconvened Session. The Governor subsequently signed the Budget Bill and the Bill was effective as of July 1, 2020.

The Budget Bill allows public bodies to hold Electronic Meetings when the Governor has declared a state of emergency pursuant to §44-146.17 if:

“(i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location;

(ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities...” §4-0.01(g).

The Department has determined that (i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location. The Department finds that

the (ii) the purpose of this meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities. The Department will (iii) make available a recording or transcript of the meeting on its website in accordance with the timeframes established in §§ 2.2-3707 and 2.2-3707.1 of the Code of Virginia.” The comments in the chat room will also be preserved as a public record. Official minutes of this meeting will be drafted and posted in accordance with regular procedures.

The Budget Bill does not allow an Electronic Meeting to discuss or transact business for any purpose. Rather, agenda items that the public body plans to take up must be: (a) statutorily required or (b) necessary to continue operations and discharge lawful purposes, duties and responsibilities.

The Budget Bill requires compliance with the provisions of § 2.2-3708.2. Therefore, in accordance with § 2.2-3708.2.D.2, public bodies must include a telephone number that may be used to notify the public body of any interruption in the telephonic or video broadcast of the meeting.

In the event that a disruption occurs, participants should contact Christine by phone or text at 804-564-1897. Additionally, if there is an interruption in the broadcast, the meeting must be suspended until public access is restored.

Those provisions of the Virginia Freedom of Information Act not addressed by the Budget Bill remain in effect.

Before we continue with the business portion of the meeting, I will ask Mark to call the roll for TAC members and anticipated staff. Other participants will be recorded through the chat window. If you are participating by phone and your name is not called, please call or text Christine at 804-564-1897.

In addition, if at any time you lose connection and are unable to reconnect, please contact Christine at the same number.

I will now turn to Mark for the calling of the roll:

(Mark calls the roll and certifies a quorum present): A quorum was established with 29 voting members present. 24 yes votes are required to meet the required 80% threshold for approval of any motion.

I want to explain further how we will handle participation by TAC members, staff, and the public. Everyone, except the individual presenting materials for an agenda item, will be muted. Once the presentation is completed, the TAC members, and only TAC members, will be unmuted for discussion. Mark and Christine will assist me with ensuring members are recognized when they have questions or comments. As needed, staff will be unmuted to address questions or concerns. Members of the public will be able to ask questions and provide input by utilizing the chat box function only. As time allows, we will respond to those questions and comments.

We will now proceed with the business of the TAC as outlined in the agenda.

DISCUSSION, David Bryan

David Bryan gave some overview of how the TAC process to this point and thanked the Stream Protection and Forestry Subcommittee for their work. The Full TAC was reminded that the Subcommittee had many discussions on the WP-2P specification including many votes, as documented in the minutes, and were able to come to unanimous consensus on the specification at their October meeting.

Mark Hollberg presented the WP-2P specification (see Attachment 1) as voted on by the Stream Protection and Forestry Subcommittee. David Bryan opened the floor for discussion.

There is some discussion on the frequency of conducting spot checks as well as possibilities of practice failure due to flooding and how that affects the specification. David Bryan reminded the Subcommittee that the spot check language is standard and practices are *subject* to spot checks each year. (This does not mean that the practice will be automatically spot checked each year). He also reminded the Subcommittee that lifespan requirements may be waived due to flooding by discretion of the District Board.

A TAC member asked a procedural question regarding whether the minutes of the last Stream Protection and Forestry Subcommittee needed to be approved as part of the agenda. David Bryan said no as the Subcommittee is comprised of a different set of individuals, many of which are not on the Full TAC.

Another member thanked the Subcommittee for their hard work and taking the creation of the specification seriously. Jim Riddell motions for a roll call vote to accept the work of the Stream Protection and Forestry Subcommittee on the WP-2P specification. Gary Boring seconds.

SUBCOMMITTEE ACTION

Motion #1

Jim Riddell motions to accept the work of Stream Protection and Forestry Subcommittee on the WP-2P specification as presented. Gary Boring seconds.

Ricky Rash, yes
Adrienne Kotula, yes
Anna Killius, yes
Lisa Hyatt for Anne Coates, yes
Brandon Dillistin, yes
Carrie Swanson, Yes
Conner Miller, yes
Dana Gochenour, yes
Darrell Marshall, yes
David Bryan, yes
Eric Paulson, yes
Gary Boring, yes
Jim Riddell, yes
Keith Burgess, yes
Kevin Dunn, yes
Kyle Shreve, yes
Luke Longanecker, yes
Matt Kowalski, yes
Megen Dalton, yes
Michael Tabor, yes
Rachel Winter, yes
Robert Bradord, yes
Sharon Conner, yes
Ben Chester for Steve Escobar, yes
Steven Meeks, yes
Todd Groh, yes
Tom Turner, yes
Tricia Mays, yes
Willie Woode, yes

Motion #1 passes unanimously. The WP-2P specification will move forward to the Virginia Soil and Water Board in the spring for consideration and adoption as part of the PY22 Agricultural BMP Manual.

FUTURE MEETINGS

Cover Crop and Nutrient Management Subcommittee Webinar on 11/12 at 1pm

Stream Protection and Forestry Subcommittee Webinar on 12/1 at 1pm

Final Full Technical Advisory Committee Webinar on 12/17 at 1pm

MEETING ADJOURNED-1:45pm

Attachment 1

Name of Practice: PORTABLE FENCING FOR STREAM PROTECTION

DCR Specifications for No. WP-2P

This document specifies terms and conditions for the Virginia Department of Conservation and Recreation's portable fencing for stream protection best management practice that are applicable to all contracts entered into with respect to that practice.

A. Description and Purpose

Protection by portable fencing along **all live streams or live water** in a field to reduce erosion, sedimentation and the pollution of water from agricultural nonpoint sources.

The purpose of this practice is to offer an incentive to exclude livestock from all live streams or live water, thereby effectively controlling soil erosion, sedimentation, and nutrient loss from surface runoff to improve water quality.

B. Policies and Specifications

1. This practice will provide a portable fencing system for protection of all live streams or live water to prevent direct deposition of livestock waste and protect stream banks and other water features such as: wetlands, intermittent springs, seeps, ponds connected to streams, sensitive karst features, and gullies adjacent to springs.
2. No minimum fencing standards are required. However, the producer is required to exclude livestock from all live streams and live water in the field(s) at all times during the lifespan of this practice, except for where stable limited access points are utilized.
3. The portable fence may be placed at the top of bank or with a buffer setback.
4. Due to the temporary nature of this portable fencing practice, provision of water is the responsibility of the producer in the field(s) where the portable fencing system will be utilized. Permanent watering systems, stable limited

access points, solar systems, stream pick-ups, temporary troughs and portable waterers are all acceptable options.

5. Wildlife, environmental, and livestock shade considerations must be given when designing the practice.
6. Flash grazing (allowing livestock to graze the excluded riparian area) is not allowed as a management alternative during the lifespan of this practice.
7. All practice components implemented must be maintained for a minimum of 5 years. The lifespan begins on Jan. 1 of the calendar year following the year of certification of completion. By accepting a cost-share payment for this practice the participant agrees to maintain all practice components for the specified lifespan.
8. This practice is subject to spot checks from District staff annually for the lifespan of the practice and failure to maintain the practice may result in reimbursement of cost-share.
9. Lifespan requirements can be waived at the discretion of the District Board if the portable fencing system is destroyed by flooding.
10. A District Board may waive the lifespan requirement of this practice for any participant that loses control of the land.
11. This practice is eligible for re-enrollment and replacement after the practice lifespan expires.

C. Rate(s)

The state cost-share rate is a single payment of \$0.30 per linear foot of fence plus a flat rate payment of \$250.00 per fencing charger required for effective use of the portable fencing system in the least cost, technically feasible manner of design.

D. Technical Responsibility

Technical and administrative responsibility is assigned to qualified technical DCR and District staff in consultation, where appropriate and based on the controlling standard, with DCR, Virginia Certified Nutrient Management Planner(s), NRCS, DOF, and VCE. Individuals certifying technical need and technical practice installation shall have appropriate certifications as identified above and/or Engineering Job Approval Authority (EJAA) for the designed and installed component(s). All practices are subject to spot check procedures and any other quality control measures.

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