

**Ag BMP TAC
Programmatic Subcommittee Meeting**

TIME AND LOCATION

The Programmatic Subcommittee meeting was held at 10am on September 12, 2024, at the Department of Forestry, 900 Resource Drive, Charlottesville, VA.

ATTENDEES:

Voting Members:

Chair, Sara Bottenfield, DCR
Brad Copenhaver, VA Agribusiness Council
Brandon Dillistin, Northern Neck SWCD
Carrie Swanson, VA Cooperative Extension
Megen Dalton, Shenandoah Valley SWCD, proxy for Charles Newton
Dana Gochenour, Lord Fairfax SWCD
Kendall Dellinger, Culpeper SWCD, proxy for Greg Wichelns
Keith Burgess, Monacan SWCD
Luke Longanecker, VACDE
Martha Moore, VA Farm Bureau
Melissa Allen, John Marshall SWCD
Pam Mason, Colonial SWCD
Ricky Rash, Piedmont SWCD
Sarah Cole, Three Rivers SWCD
Sharon Conner, Hanover Caroline SWCD
Steven Meeks, VASWCD

Non-Voting Members

Blair Gordon, DCR
Olivia Leatherwood, DCR
Jen Edwards, DCR
Denney Collins, DCR
Christine Watlington Jones, DCR
Ty Smith, Piedmont SWCD
Blair Blanchette, VASWCD
Kelly Snoddy, VACDE

WELCOME

Sara Bottenfield opened the meeting and asked everyone to introduce themselves.

DISCUSSION AND ACTION TAKEN

Subcommittee discussion of matrix items.

1P. Repayment for practices that are not destroyed but where participant is out of compliance.

“Add language in manual (Section II- Practices Not Maintained or Destroyed During Lifespan) to outline process for District to seek repayment for practices that are not destroyed, but where participant has repeatedly been out of compliance. Ex- multiple documented instances of livestock in buffer of SL-6. Recognizing that Board already has that authority, but outlining a process in the manual prevents participants from claiming discrimination or that a SWCD is picking on them.

Suggested language: For participants found to have the same practice out of compliance or not being maintained on multiple occasions, the District’s board of directors has the authority to seek repayment of cost-share funds. The following steps should be taken to document the instances of non-compliance and pursue repayment after participant has been given the opportunity to return to and maintain compliance.

- o 1st offense- verbal warning and document in file*
- o 2nd offense- written warning (certified letter and document in file)*
- o 3rd offense-Board action to require repayment of prorated cost-share (notified via certified letter)”*

The subcommittee discussed concerns with situations where a practice is found out of compliance, is able to quickly/easily return to compliance, but continues to repeat the same problem. It was noted that the terms of the VACS contract include acknowledgement by the participant that staff may access the practice to inspect it during the lifespan. Districts may do so at their discretion. The consensus of the subcommittee is that current language in the VACS Manual on page II-49 is sufficient to allow SWCD boards the authority to follow up on repeated noncompliance by seeking repayment. It is important that the SWCD document their policies related to these situations and their notices to the producer.

Motion to table by Melissa Allen, seconded by Luke Longanecker. Passes unanimously.

2P: Acreage Requirement

“Remove the acreage requirement from VACS qualifications. While these guidelines are purposeful in intention, they are also serving as method of exclusion for certain demographics of farmers. Financial assistance concerning sustainability measures within Virginia should not be dependent on each farmer’s acreage. Or, create another Ag program for farms less than 5 acres. See supporting documentation.”

Discussion by the subcommittee recognized that there may be a gap in offerings to small farmers but based on the information provided, felt that VACS would not address many of their needs. In addition to the survey results provided by the submitter, information about sub-5-acre applicants for funding under the Alliance to Advance Climate-Smart Agriculture grant was reviewed. Several other existing programs were mentioned, including USDA’s Small Farm Initiative and new practice specifications being developed by NRCS, and new and beginning farmer programs from VSU. The subcommittee acknowledged that with existing staffing levels and workloads, creating a new program for small farms is not feasible. The subcommittee would like to encourage the submitter (James River SWCD) and partners to work on compiling information about existing resources that could be provided to small farmers, and to consider collaborating as a ‘task force’ on an application for grant funding to implement a small-scale pilot program. Several subcommittee members are willing to assist.

Motion by Keith Burgess recommending that James River SWCD work with partners to form a task force to explore options and opportunities for farms with less than 5 acres. Seconded by Ricky Rash. Passes unanimously.

Motion by Ricky Rash that the Programmatic Subcommittees does not recommend removing the VACS acreage requirement at this time and to defer item 2P pending new information from the task force. Seconded by Dana Gochenour. Passes unanimously.

5P: Add SL-8M and WFA-CC to EAN Eligible Practices

“Consider adding SL-8M and WFA-CC practices to the EAN guidance listed on page II-46.”

The EAN guidelines were established years before these practices were added to the VACS manual. They may be addressed by the phrase “other cover crop practices” but the subcommittee agreed that listing them would improve clarity.

Motion by Melissa Allen to add SL-8M and corresponding options under WFA-CC to the list of other cover crop practices on page II-47 to clarify that they are included in the EAN provision. Seconded by Sharon Conner. Passes unanimously.

3P: Calculation of Obligated Funds

“The way obligated funds are calculated punishes districts for situations out of their control. One situation is cover crops. A drought hits, cover crops don't come up, we have to cancel hundreds of thousands of dollars in cover crop contracts and we lose TA and get a bad review because the cancelled cover crop contracts will not count towards our 90% obligated. Bad behavior is being encouraged to achieve the 90% obligated. Also, we have had situations where stream exclusions have been planned and everything on our end has been done and for no reason the producer cancels the project in the same program year and we have to rush to find another project to meet our 90% deliverable. Again, we have done all of the planning, meeting with the producer multiple times to get the plan right, our board has approved the contract, and then we're punished because the producer backs out. The obligated funds should not be changed once the district's board approves the contract. Most of our work has been done at that point, In summary, obligated should be counted as board approved contracts. When contracts are completed and they come under estimate, then the obligated amount can be the total actual cost.”

The subcommittee discussed that this issue is a concern for Districts but as a policy issue is not appropriate for the TAC.

Motion by Melissa Allen to table. This issue is outside the purview of this committee but we support the continued discussion and collaboration between SWCDs, VASWCD, DCR, and the State Soil and Water Conservation Board. Seconded by Steven Meeks. Sara Bottenfield abstained. Motion passes.

4P: WFA Crossing District Boundaries

“We realize that WFA is a pilot program and as such has been restricted to District boundaries. If WFA will not be going statewide for PY26, we encourage you to allow Districts to treat it like other annual practices and be eligible to cross District boundaries under an agreement with neighboring Districts. The WFA program is intended to be holistic and encompass the entire operation, if the operation is on a District boundary, the entire operation cannot be signed up for WFA.”

There are no immediate plans for WFA to be implemented statewide. SWCDs have the option to participate if they choose. There is a challenge of workload for staff and as WFA expands as a pilot there are new tools being developed and issues still being identified and worked through. Currently If both SWCDs are participating in WFA then they can take cross-boundary WFA signups under an agreement as allowed for standard VACS practices.

Motion by Pam Mason to table. Seconded by Steven Meeks. 6 opposed, motion fails.

The committee did not want to lose the ability to no longer be able to discuss in the future. They want updates, discussion and/or a roundtable for SWCDs to be able to talk about and hear updates from other SWCDs and DCR about WFA.

Motion by Martha Moore to defer. Seconded by Melissa Allen. 6 opposed, motion fails.

Motion by Pam Mason to table. Seconded by Dana Gochenour. 4 opposed, motion fails.

Motion by Carrie Swanson to table as written, with the caveat that this opens a discussion with SWCDs and DCR to discuss the barriers with implementing WFA statewide. Seconded by Brad Copenhaver. 1 opposed, motion passes.

Item 6P:

“Contract Part I- Applicant Self-Certification- Language change or clarification. “I certify that the practices for which I am requesting cost-share funding or tax credit are not, and will not, be used in a mitigation bank, nutrient trading program, or to comply with any state or federal law, regulation, or permit. “Would a producers permit through DEQ for poultry, dairy or other livestock be considered a “permit” with which a Manure Storage Practice would help them “comply”?”

A DEQ permit is considered a permit for the purposes of VACS eligibility. The interpretation of this requirement has been that an applicant may be in compliance with their permit in a way that is not as protective of water quality as it could be, and can receive VACS funding to implement a more protective practice. If a specific action or practice is required by the permit, the applicant is not eligible for VACS funding to implement it. The committee agreed that this is a training issue.

Motion to table by Sara Bottenfield. This can be addressed as a training issue on permits and eligibility. Steven Meeks seconded. Passes unanimously.

PUBLIC COMMENT

No public comment.

ADJOURN

The Programmatic Subcommittee’s work for the year is complete.

Adjourn 1:48 pm