

Stormwater Stakeholder Advisory Group
Nutrient Trading Work Group
Tuesday, June 22, 2015
Final Meeting Notes¹

Location: DEQ Central Office
2nd Floor Conference Room A
629 E. Main Street
Richmond, VA

Start: 1:05 p.m.
End: 3:10 p.m.

SAG Nutrient Trading Work Group Members Present:

Elizabeth Andrews, DEQ
Melanie Davenport, DEQ
Chris Pomeroy, Aqua Law

L. Eldon James, Eldon James Associates
Rick Parrish, Private Citizen (formerly SELC)

Work Group Members Absent:

Bart Thrasher, VDOT
Whitney Katchmark, HRPDC

Katie Frazier, Va. Agribusiness Council

Facilitator: Mark Rubin, VCU

Recorder: Mary Major, DEQ

Guests and Public Attendees:

Shannon Varner, Troutman Sanders
Glen Payton
John Olenik, VDOT

Fred Cunningham, DEQ
Drew Hammond, DEQ

I. Agenda Item: Welcome and Overview of Handouts

Discussion: Mark Rubin welcomed all to the meeting. It was noted that the decisions on any recommendations by the NWG will be made by the SAG.

II. Agenda Item: Review proposed changes to § 62.1-44.15:35

Discussion: Elizabeth Andrews led the NWG discussion on the proposed new language for §62.1-44.15:35, Nutrient credit use and additional offsite options for construction activities (Attachment A). The draft was reviewed section by section to obtain group consensus for the new organization and proposed language.

- Section A: Consensus on adding the definition of "Hydrologic Unit Code" or "HUC". Consensus on changes to the term "Tributary" necessitated by 2015 legislation. Consensus on eliminating the term "Virginia Stormwater Management Program Authority" or "VSMP authority" because it is already covered in the SWMA definitions.
- Section B: Consensus on proposed draft language.
- Section C: It was determined that flexibility for VSMPs in determining impacts to water quality and quantity is appropriate when evaluating offset options as is currently reflected within the DEQ regulations and clarifying language would be added to the draft proposal. A definition for offsite options would be crafted and added to the proposal. Regarding item (3) it was determined that no additional language was necessary. It was also clarified that under paragraph C (ii) that offsite options could be used when either less than five acres of land would be disturbed, or the phosphorous water quality reduction requirement is less than 10 pounds per year.
- Section D: Section D in the proposed draft contains the language from section H of the current law with no changes.
- Section E: Section E in the proposed draft contains the language from section I of the current law with the only change being the use of the term "land disturber" instead of the term "applicant". There was discussion as to whether the current clause in section I referring to the pro rata share program established in January 1, 2011 should be retained in the new proposed draft. For simplicity, it was agreed that the clause should remain.

¹ Finalized 10/06/15

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- Section F: Section F in the proposed draft contains the language from section L of the current law with the only change being the removal of the opening clause; "To the extent available."
 - Section G: Section G in the proposed draft contains language from section M of the current law and the last two clauses from section I of the current law.
 - Section H: Section H in the proposed draft contains language from section F of the current law. Sections H 1 and H 2 of the proposed draft contain language from section E of the current law. Section H 3 contains language from Section G of the current law, and H 4 is the language from Section K of the current law.
 - Section J of current law: There was significant discussion as to whether the current language in Section J should be retained, highlighting the difference between the Chesapeake Bay TMDL and local TMDLs within the MS4 service area. It was determined that the language should be retained but possibly amended after consultation with DEQ TMDL staff.
 - Sections N and O of current law: There was discussion as to whether these last two provisions in the current law need to be added to the proposal, creating new Sections I and J. It was determined that they are not required.

It was agreed that the proposed draft, as edited by the workgroup and once TDML staff input was obtained, would be forwarded to the Stormwater Stakeholders Advisory Group for their review and approval.

The NWG meeting was then adjourned.

Attachment A



Nutrient Credits draft
(3).docx