

**AGRICULTURAL BMP TECHNICAL ADVISORY COMMITTEE  
PROGRAMMATIC SUBCOMMITTEE  
VDOF Headquarters, 900 Natural Resources Drive Charlottesville, VA  
August 4, 2021  
9:30am**

**TIME AND PLACE**

The Programmatic Subcommittee meeting was held on Wednesday August 4, 2021 at 9:30am at the Virginia Department of Forestry headquarters in Charlottesville.

**ATTENDANCE**

**Voting Members Present**

Martha Moore, Virginia Farm Bureau  
Willie Woode, Northern Virginia SWCD  
Greg Wichelns, Culpeper SWCD  
Kyle Shreve, Virginia Agribusiness Council  
Carrie Swanson, Virginia Cooperative Extension  
Charles Newton, Shenandoah Valley SWCD  
Brandon Dillistin, Northern Neck SWCD  
Steven Meeks, Virginia Association of Soil and Water Conservation Districts  
Ricky Rash, Piedmont SWCD  
Sharon Conner, Hanover-Caroline SWCD  
Dana Gochenour, Lord Fairfax SWCD  
Melissa Allen, John Marshall  
David Bryan, DCR  
Mary Eiserman, Thomas Jefferson SWCD

**Voting Members not Present**

Adrienne Kotula, Chesapeake Bay Commission

**Non-Voting Members Present**

Nicole Keller, DCR  
Christine Watlington, DCR  
Stu Blankenship, DCR  
Denney Collins, DCR

**WELCOME**

Meeting Opens (9:30 AM)

A quorum was established with 14 voting members present. David Bryan welcomed the participants and briefly reviewed the agenda as well as a brief review of the upcoming TAC year and rules.

**SUBCOMMITTEE ACTIONS**, David Bryan

- 1P – Agreements with Non-Profit Partners to Exceed VACS Cost-Share Rates
  - Proposed language attached (Attachment 1)

- DCR staff emphasized that there is currently an option for Districts to partner with outside conservation groups above VACS cost-share rates, but that it must be addressed on a case-by-case basis with the Virginia Soil and Water Conservation Board. One District has a project that is going to the Board in September.
  - Martha Moore asked DCR to expedite and send to the State Board as soon as possible for adoption.
  - David Bryan reminded the Subcommittee that this suggestion must also pass the Full TAC in October before it can be sent to the Board; December would be the earliest.
  - It was requested that DCR be notified of these partnerships so that additional funding sources can be added in CAS.
  - Motion made by Martha Moore to move the item forward to the full TAC, with additional language regarding DCR notification to be added, and for it to be effective as soon as possible following Board approval. Motion seconded by Ricky Rash. Motion passed unanimously. DCR will add the notification language for presentation to the Full TAC meeting in October.
- 2P – “No Faults” Practice Failures
    - Proposed language attached (Attachment 2)
    - The VACS Program already has an option for helping producers in the event of a Practice Failure due to an Extreme Act of Nature. This current proposal is for rare “no fault” situations where a VACS practice fails in contract lifespan due to no obvious lack of maintenance and the absence of an Extreme Act of Nature.
    - DCR Engineering Services will be required to be involved in the investigation to see if a producer is indeed eligible for the fix due to a true “no fault” situation.
    - Motion made by Martha Moore to move proposed language as presented forward to full TAC. Motion seconded by Ricky Rash. Motion passed unanimously.
- 3P – Prioritization of the Conservation, Establishment or Protection of Wetlands and Riparian Buffers
    - Item would add a statement to the Manual encouraging Districts to voluntarily prioritize practices that establish or protect wetlands and riparian buffers in their Secondary Considerations.
    - General discussion followed, with members noting that there are currently no wetland cost-share practices to prioritize and that several buffer and stream fencing practices are already prioritized. There was concern that this might create confusion.
    - Motion made by Kyle Shreve to table the item. Motion seconded by Steven Meeks. Two members abstained, motion passed.
- 5P Aquaculture/ Oysters
    - Item asks for consideration of development of oyster and aquaculture practices.
    - General discussion followed. There was concern that oyster/aquaculture is not an expertise of DCR and may be more efficiently handled by other agencies assigned to this type of work in the Chesapeake Bay WIP (e.g. VMRC, VDACs).
    - While there are available Model credits for oyster/aquaculture, it remains unclear what and how much credit DCR would garner through development of such practices. Members disagreed over whether the item was worth pursuing, with some believing every available reduction should be pursued and others believing that such practices

would not apply to many agricultural producers and may exceed the VACS Program purview. VACS eligibility requirements would likely have to be revised to allow for this.

- DCR made clear that if the TAC pursued oyster practices, it would be a multi-year process at least. No new oyster practices would be rolled out before Program Year 2024 or 2025 due to the amount of work that would have to go into this, if the TAC and Board even approved it.
- Greg Wichelns requested detailed information be delivered to the subcommittee on what practices can be used for this and the typical cost. DCR will reach out to partners to learn more.
- Motion made by Ricky Rash to move the item forward to full TAC. Motion seconded by Martha Moore. Motion fails with 8 yays, 5 nays, and DCR abstaining.
- Motion made by Greg Wichelns to defer the item to next year. Motion seconded by Kyle Shreve. Motion passes unanimously.

### **BREAK**

- 4P – New Tracking Status for Cover Crops
  - New item would create a new status called “Approved Pending Funding” for practices that were not funded due to lack of District funds. This is an administrative change and would not impact anyone’s qualification or funding.
  - General discussion followed. There was concern this is misleading and would cause confusion, as a practice under this status would not actually yet be approved by the District. There was also concern that it would be too burdensome to integrate into CAS. Current status choices in CAS already serve this function.
  - Motion made by Dana Gochenour to table the item. Motion seconded by Ricky Rash. Motion passes unanimously.

### **PUBLIC COMMENT**

- Ricky Rash informed the subcommittee of the upcoming VASWCD Legislative Committee Zoom Meeting being held on August 19<sup>th</sup> at 10am.
- Sharon Conner asked how to re-address old practices that were tabled in previous years. David Bryan answered that they should just be submitted as a suggestion next year.
- Greg Wichelns asked about regionalization of the VACS Program. David Bryan replied that former Data Services Manager Roland Owens had been looking at adding a regionalization factor into CEF since DCR is aware that practices vary in their Chesapeake Bay Model credit depending on their location within the watershed. In other words, a cover crop in the Coastal Plain may receive a different amount of credit than that same cover crop in the Mountain Valley region. However, after the idea was discussed with the Chesapeake Bay Program, it seemed like it was impractical from a data perspective. No top-down decisions or actions have been made by DCR leadership.

### **FUTURE MEETING DATES, TIMES AND LOCATIONS**

Agricultural BMP Technical Advisory Committee, mid-late October to be announced soon.

### **ADJOURN**

## Attachment 1 - Item #1P

Districts ~~and~~, federal agencies ~~, or other conservation organizations~~ may choose to combine resources to fund **mutually** high priority practices up to a maximum state and federal cost-share rate as listed in the VACS BMP specifications. Other sources of funding, including funding from local ~~sources, and~~ private sources, ~~and non-profit conservation organizations~~, may provide additional reimbursement opportunities in addition to the rates listed in the VACS BMP specifications, up to 100% cost-share or greater. Experience has shown that a contribution towards implementing the practice by the participant encourages the long-term maintenance of the practice. Districts are encouraged to meet with local conservation workgroups to discuss funding options, priorities, and program administration. In addition, Districts may use locally-approved current commercial rates (e.g. seed, lime, fertilizer, machinery, and labor), District approved unit cost, or statewide average costs to establish estimates for eligible practice components.

## Attachment 2 - Item #2P

### Practice Failures Due to Unknown Causes

Very rarely, a conservation practice fails during lifespan in the absence of an Extreme Act of Nature (EAN) or lack of maintenance. In such situations, the producer may be eligible for additional cost-share in order to assist with the costs of the necessary repairs to ensure the practice is fully functioning. The practice must have been certified and the failure must have occurred during the lifespan requirement of the practice in order for the producer to be eligible for funding.

If a participant receives cost-share funding for a practice failure due to unknown causes, the participant will (i) receive the cost-share rate established in the current equivalent VACS practice specification and (ii) will be responsible for a newly reset lifespan requirement for that practice based upon the current equivalent VACS practice specification. Previously established buffers shall not receive a buffer payment. District staff shall inform the participant that there is no guarantee of funding.

If the participant requests cost-share funding in response to such circumstances, District staff shall proceed as follows:

1. If the practice requires Engineering Job Approval Authority (EJAA), the District staff person with the appropriate EJAA shall schedule a joint site visit with DCR Engineering Services staff to inspect the practice and ensure that the practice failure is eligible. If so, District staff shall work with the participant and DCR Engineering Services to plan an acceptable least cost, technically feasible solution for repairing the practice;
2. The District Board must make the ultimate determination as to whether or not the additional funding is warranted or if the failure was due to lack of maintenance. A formal vote by the local District Board is required as to whether or not the District should move the request forward to DCR;
3. If the District Board votes to move the request forward, District staff shall contact the applicable CDC or DCR Data Services staff to set the original instance to Unapproved in the AgBMP Tracking Module, develop a map of the project, including the solution to the practice failure, digitize the additional or changed components of the practice and run Resource Reviews in the AgBMP Tracking Module as applicable per the VACS Manual, and formulate the new Estimated Instance Cost, new Estimated Cost-Share Payment and Tax Credit for the project repair;
4. District staff shall notify the applicable Conservation District Coordinator (CDC) that they have a previous Program Year BMP instance that has been determined to have failed due to an EAN during the lifespan of the practice. District staff should provide project details to their CDC as to why additional cost-share is warranted, including a Narrative, the Map of Practices, Estimated Instance Cost, Estimated Cost-Share Payment and Tax Credit.

The CDC will review and, when all necessary information is received, route the request to the Agricultural Incentives Program Manager for review, consultation with DCR Engineering Services, and approval if warranted. If approved by the Agricultural Incentives Program Manager, the District shall proceed utilizing the steps recorded in the VACS Guidelines section titled: “*Process for Requesting Cost-Share Funding for an EAN*”.