

**Stormwater Local Government Advisory Committee
December 18, 2012
Richmond Virginia**

SLGAC Members Present

Barbara Brumbaugh, City of Chesapeake
Debbie Byrd, Goochland County
Whitney Katchmark, HRPDC
Larry Land, VACO
Bruce McGranahan, Fairfax County
Sam Johnson, Northern Neck SWCD
William Johnston, City of Virginia Beach
Dan Rublee, City of Harrisonburg
Alyson Sappington, Thomas Jefferson Soil and Water Conservation District
Ginny Snead, DCR
Brian Stokes, Campbell County
Cabell Vest, Aqualaw
Joe Wilder, Frederick County

Agency Staff Present

Susan Block, DCR
David Dowling, DCR
James Golden, DEQ
Michael Fletcher, DCR
John McCutcheon, DCR
Joan Salvati, DCR
Gerry Seeley, DCR
Shawn Smith, DCR
Matthew Gooch, Office of the Attorney General

Others Present

Joe Maroon, Maroon Consulting
Jenny Johnson, Joyce Engineering
Norman Goulet, Northern Virginia Regional Commission
Erin Hawkins, City of Lynchburg
Adrienne Kotula, James River Association
Anthony Moore, Deputy Secretary of Natural Resources
Scott Rae, Gloucester County
Jonét Prévost-White, City of Richmond
Jason Widstrom, City of Falls Church

Call to Order

Ms. Snead called the meeting to order and welcomed attendees to meeting #8.

Ms. Snead gave an update on recent DCR activities.

MS4 Update

- Phase I MS4
 - Arlington revised Draft to EPA November 2012
 - EPA comments on Draft expected this week
 - DCR/EPA Letter of Agreement – Prince William
- Phase II MS4
 - Proposed Regulations VSWCB September 28
 - Public comment Period/EPA Comment
- Phase I and Phase II Consistency

Ms. Snead said the public comment period for the Phase II MS4 would go through the beginning of January.

Construction GP Reissuance

- Accelerated Timeframe – Model Ordinance
 - Additional Meeting January 4, 2013
- Primary Issues
 - Define Common Plan of Development – Fact Sheet
 - Address TMDL WLA – Inspection vs. Advance E&S
 - SWPPP Availability
 - Qualified Personnel Definition
 - Measurable Rain Event

Ms. Snead said that the RAP would be working through those issues at the January 4 meeting.

Nutrient Credit Certification RAP Update

- 2 meetings have been held
 - Introduction/Overview
 - Reg Outline and Definitions
- Next meeting February 22, 2013
- NOIRA
 - Nutrient Credit Certification Regulations- Banking
 - Stormwater Regulations for Credits

General Update

General Update

- Phase II Regional Meetings: Training
 - Tier 1 Training – General Training
- Model Ordinance
- FAQ
- Substantive Progress
- Certification Program Development

Mr. McCutcheon said that the trainings were general training sessions. He said that several of the training sessions had been held. All are currently scheduled. He said that staff would begin the process of developing a detailed training and certification program in January. He said that DCR would form a subject matter expert committee to provide guidance in the process.

Ms. Brumbaugh said that she heard good feedback from those who attended the training in Chesapeake.

Discussion Regarding Fees

Mr. Dowling provided an overview on stormwater management fees. His presentation provided information on the authority for stormwater management fees in Virginia and provided background information regarding the derivation of local and state portions of the fee with the concept that both fees were developed to provide what was believed to be sufficient funding for the operational needs of both entities during the land-disturbing activity.

Detailed information may be found in the discussion documents that were developed as part of the formal regulatory adoption process that may be found on the Regulatory Town Hall at <http://www.townhall.virginia.gov/L/viewstage.cfm?stageid=5106&display=documents>. He stated that all of the history and computations may be found in these documents.

Mr. Dowling also noted that information regarding the initial fee development process and the Technical Advisory Committee discussions of the time are found on the Department's website at http://www.dcr.virginia.gov/laws_and_regulations/lr2b.shtml.

Mr. Dowling reviewed and discussed highlights of the Code and Regulation sections outlined below:

Code Authorities Regarding Stormwater Management Program Fees

§ 10.1-603.4. Development of regulations.

A. The Board is authorized to adopt regulations that specify minimum technical criteria and administrative procedures for Virginia Stormwater Management Programs. The regulations shall:

1. Establish standards and procedures for administering a VSMP;

3. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;

5. Establish by regulations, with the concurrence of the Director, a statewide permit fee schedule to cover all costs associated with the implementation of a VSMP related to land-disturbing activities of one acre or greater. **Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs.** The fee schedule shall also include a provision for a reduced fee for land-disturbing activities between 2,500 square feet and up to 1 acre in Chesapeake Bay Preservation Act (§ 10.1-2100 et seq.) localities. The fee schedule shall be governed by the following:

a. The revenue generated from the statewide stormwater permit fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 10.1-603.4:1. However, whenever the Board has approved a VSMP, no more than 30 percent of the total revenue generated by the statewide stormwater permit fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VSMP authority.

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VSMP; **however, the fees shall be set at a level sufficient for the Department and the VSMP to fully carry out their responsibilities under this article and its attendant regulations and local ordinances or standards and specifications where applicable.**

When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision 5 a. A VSMP's portion of the fees shall be used solely to carry out the VSMP's responsibilities under this article and its attendant regulations, ordinances, or annual standards and specifications.

c. Until July 1, 2014, the fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the Board, or where the Board has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for an entity for which it has approved annual standards and specifications, shall be \$750 for each large construction activity with sites or common plans of development equal to or greater than five acres and \$450 for each small construction activity with sites or common plans of development equal to or greater than one acre and less than five acres. On and after July 1, 2014, such fees shall only apply where coverage has been issued under the Board's General Permit for Discharges of Stormwater from Construction Activities to a state agency or federal entity for which it has approved annual standards and specifications. After establishment, such fees may be modified in the future through regulatory actions.

d. Until July 1, 2014, the Department is authorized to assess a \$125 reinspection fee for each visit to a project site that was necessary to check on the status of project site items noted to be in noncompliance and documented as such on a prior project inspection.

e. When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed.

10. Establish, with the concurrence of the Director, a statewide permit fee schedule for stormwater management related to municipal separate storm sewer system permits; and

B. In accordance with the Administrative Process Act (§ 2.2-4000 et seq.), the Board may integrate and consolidate components of the Erosion and Sediment Control Regulations (4 VAC 50-30) and the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20) with the Virginia Stormwater Management Program (VSMP) Permit Regulations (4 VAC 50-60) or repeal components so that these programs may be implemented in a consolidated manner that

provides greater consistency, understanding, and efficiency for those regulated by and administering a VSMP.

(1989, cc. 467, 499; 1991, c. 84; 2004, c. 372; 2005, c. 102; 2006, c. 21; 2008, c. 405; 2009, c. 709; 2012, cc. 785, 819.)

§ 10.1-603.4:1. Virginia Stormwater Management Fund established.

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Stormwater Management Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected by the Department pursuant to §§ 10.1-603.4, 10.1-603.12, and 10.1-2104.1 and all civil penalties collected pursuant to § 10.1-603.15:4 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the Department's responsibilities under this article. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

An accounting of moneys received by and distributed from the Fund shall be kept by the State Comptroller.

(2004, c. 372; 2012, cc. 748, 785, 808, 819.)

§ 10.1-603.10. (For contingent repeal, see Editor's note) Recovery of administrative costs.

Any locality which administers a stormwater management program may charge applicants a reasonable fee to defray the cost of program administration, including costs associated with plan review, issuance of permits, periodic inspection for compliance with approved plans, and necessary enforcement, provided that charges for such costs are not made under any other law, ordinance or program. The fee shall not exceed an amount commensurate with the services rendered and expenses incurred or \$1,000, whichever is less.

(1989, cc. 467, 499.)

Regulations Regarding Stormwater Management Program Fees

4VAC50-60-55. Stormwater management plans.

B. A complete stormwater management plan shall include the following elements:

10. If payment of a fee is required with the stormwater management plan submission by the VSMP authority, the fee and the required fee form in accordance with Part XIII must have been submitted.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 27, Issue 26, eff. September 13, 2011; amended, Virginia Register Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-103. VSMP authority requirements for Chesapeake Bay Preservation Act land-disturbing activities.

A. A VSMP authority shall regulate runoff associated with Chesapeake Bay Preservation Act land-disturbing activities in accordance with the following:

C. In accordance with subdivision 5 of § 10.1-603.4 of the Code of Virginia, a locality's VSMP authority may collect a permit issuance fee from the applicant of \$290 and an annual maintenance fee of \$50 for such land-disturbing activities.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 27, Issue 26, eff. September 13, 2011; amended, Virginia Register Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-148. Virginia stormwater management program administrative requirements.

A. A VSMP shall provide for the following:

6. Collection, distribution to the state if required, and expenditure of fees;

B. A locality's VSMP authority shall adopt and enforce an ordinance(s) that incorporates the components set out in subdivisions 1 through 5 and 7 of subsection A of this section. Other VSMP authorities shall provide supporting documentation that incorporate the components set out in subdivisions 1 through 5 of subsection A of this section in a format acceptable to the department.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 27, Issue 26, eff. September 13, 2011; amended, Virginia Register Volume 29, Issue 4, eff. November 21, 2012.

Part XIII

Fees

4VAC50-60-700. Purpose.

Sections 10.1-603.4 and 10.1-603.5 of the Code of Virginia authorize the establishment of a statewide fee schedule, including administrative charges for state agencies, for stormwater management for land-disturbing activities and for municipal separate storm sewer systems. This part establishes the fee assessment and the collection and distribution systems for those fees. The fees shall be established for individual permits or coverage under the General Permit for Discharges of Stormwater From Construction Activities (state permits for stormwater management for land-disturbing activities) to cover all costs associated with the implementation of a VSMP by a VSMP authority that has been approved by the board and by the department. Such fee attributes include the costs associated with plan review, registration statement review, permit issuance, state-coverage verification, inspections, reporting, database management, and compliance activities associated with the land-disturbing activities as well as for program oversight costs. Fees shall also be established for state permit maintenance, modification, and transfer.

Fees collected pursuant to this part shall be in addition to any general fund appropriations made to the department or other supporting revenue from a VSMP; however, the fees shall be set at a level sufficient for the department and the VSMP authority to fully carry out their responsibilities under the Act, this chapter, local ordinances, or standards and specifications where applicable.

When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in 4VAC50-60-820 as available to the department for program oversight responsibilities pursuant to § 10.1-603.4 A 5 a of the Code of Virginia. Accordingly, should a VSMP authority demonstrate to the board its ability to fully and successfully implement a VSMP without a full implementation of the fees set out in this part, the board may authorize the administrative establishment of a lower fee for that program provided that such reduction shall not reduce the amount of fees due to the department for its program oversight and shall not affect the fee schedules set forth herein.

A VSMP authority may establish greater fees than those base fees specified by this part should it be demonstrated to the board that such greater fees are necessary to properly administer the VSMP. Any fee increases established by the VSMP authority beyond those base fees established in this part shall not be subject to the fee distribution formula set out in 4VAC50-60-780. Nothing in this part shall prohibit a locality from establishing other local fees authorized by the Code of Virginia related to stormwater management within their jurisdictions.

A VSMP's portion of the fees shall be used solely to carry out the VSMP's responsibilities under the Act, this chapter, ordinances, or annual standards and specifications.

As part of its program oversight, the department shall periodically assess the revenue generated by both the VSMP authorities and the department to ensure that the fees have been appropriately set and the fees may be adjusted through periodic regulatory actions should significant deviations become apparent.

Statutory Authority

§ 10.1-603.2:1 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-730. Applicability.

A. This part applies to:

1. All persons seeking coverage of a MS4 under a new state permit. The fee due shall be as specified under 4VAC50-60-800.

2. All operators who request that an existing MS4 individual permit be modified, except as specifically exempt under 4VAC50-60-740. The fee due shall be as specified under 4VAC50-60-810.

3. All persons seeking coverage under the General Permit for Discharges of Stormwater From Construction Activities or a person seeking an Individual Permit for Discharges of Stormwater From Construction Activities. The fee due shall be as specified under 4VAC50-60-820.

4. All state permittees who request modifications to or transfers of their existing registration statement for coverage under a General Permit for Discharges of Stormwater From Construction Activities or of an Individual Permit for Discharges of Stormwater From Construction Activities. The fee due shall be as specified under 4VAC50-60-825 in addition to any additional fees necessary pursuant to 4VAC50-60-820 due to an increase in acreage.

5. Reinspection fees assessed by the department to recoup the costs associated with each visit to a land-disturbing project site that was necessary to check on the status of project site items noted to be in noncompliance and documented as such on a prior project inspection. The fee due shall be as specified under 4VAC50-60-790.

6. Business transaction costs assessed associated with processing credit card payments.

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Virginia Register Volume 26, Issue 9, eff. February 3, 2010; Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-750. Due dates for state permits.

A. Requests for a state permit, state permit modification, or general permit coverage shall not be processed until the fees required pursuant to this part are paid in accordance with 4VAC50-60-760.

B. Individual permit or general permit coverage maintenance fees shall be paid annually to the department or the VSMP authority, as applicable, by the anniversary date of individual permit issuance or general permit coverage. No state permit will be reissued or automatically continued without payment of the required fee. Individual permit or general permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Virginia Register Volume 26, Issue 9, eff. February 3, 2010; Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-760. Method of payment.

A. Fees shall be collected utilizing, where practicable, an online payment system. Until such system is operational, fees, as applicable, shall be, at the discretion of the department, submitted electronically or be paid by check, draft or postal money order payable to:

1. The Treasurer of Virginia, for a MS4 individual or general permit or for a coverage issued by the department under the General Permit for Discharges of Stormwater From Construction Activities or Individual Permit for Discharges of Stormwater From Construction Activities, and must be in U.S. currency, except that agencies and institutions of the Commonwealth of Virginia may submit Interagency Transfers for the amount of the fee. The Department of Conservation and Recreation may provide a means to pay fees electronically. Fees not submitted electronically shall be sent to the following address until December 31, 2012:

Virginia Department of Conservation and Recreation
Division of Finance, Accounts Payable
203 Governor Street
Richmond, VA 23219

Fees not submitted electronically shall be sent to the following address after December 31, 2012:

Virginia Department of Conservation and Recreation
Division of Finance, Accounts Payable
600 East Main Street
24th Floor
Richmond, VA 23219

2. The VSMP authority, for VSMP operational costs of the VSMP authority under the General Permit for Discharges of Stormwater From Construction Activities, and must be in U.S. currency.

B. When fees are collected electronically pursuant to this part through credit cards, business transaction costs associated with processing such payments may be additionally assessed.

C. Required information for state permits or state permit coverage: All applicants, unless otherwise specified by the department, shall submit the following information along with the fee payment or utilize the Department of Conservation and Recreation Permit Application Fee Form:

1. Applicant name, address and daytime phone number.
2. Applicant Federal Identification Number (FIN), if applicable.
3. The name of the facility/activity, and the facility/activity location.
4. The type of state permit applied for.
5. Whether the application is for a new state permit issuance, state permit reissuance, state permit maintenance, or state permit modification.
6. The amount of fee submitted.
7. The existing state permit number, if applicable.
8. Other information as required by the VSMP authority.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Virginia Register Volume 26, Issue 9, eff. February 3, 2010; Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-780. Deposit and use of fees.

A. All fees collected by the department or board pursuant to this chapter shall be deposited into the Virginia Stormwater Management Fund and shall be used and accounted for as specified in § 10.1-603.4:1 of the Code of Virginia. Fees collected by the department or board shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

B. All fees collected by a VSMP authority pursuant to this chapter shall be subject to accounting review and shall be used solely to carry out the VSMP authority's responsibilities pursuant to the Act, Part II and Part III A of this chapter, local ordinances, or annual standards and specifications.

Pursuant to subdivision 5 a of § 10.1-603.4 of the Code of Virginia, whenever the board has authorized the administration of a VSMP by a VSMP authority, 28% of the total revenue generated by the statewide stormwater management fees collected in accordance with 4VAC50-60-820 shall be remitted on a schedule determined by the department to the State Treasurer for deposit in the Virginia Stormwater Management Fund unless otherwise collected electronically. If the VSMP authority waives or reduces any fee due in accordance with 4VAC50-60-820, the VSMP authority

shall remit the 28% portion that would be due to the Virginia Stormwater Management Fund if such fee were charged in full. Any fee increases established by the VSMP authority beyond the base fees established in this part shall not be subject to the fee distribution formula.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Virginia Register Volume 26, Issue 9, eff. February 3, 2010; Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-820. Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.

The following fees apply to coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the department prior to a VSMP authority being approved by the board in the area where the applicable land-disturbing activity is located, or where the department has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency for which it has approved annual standards and specifications.

General / Stormwater Management - Phase I Land Clearing ("Large" Construction Activity - Sites or common plans of development equal to or greater than five acres)	\$750
General / Stormwater Management - Phase II Land Clearing ("Small" Construction Activity - Sites or common plans of development equal to or greater than one acre and less than five acres)	\$450
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than one acre) (Fee valid until July 1, 2014)	\$200

The following fees apply to coverage under the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that does not file annual standards and specifications or an individual permit issued by the board or coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the board. For coverage under the General Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the base fee set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with 4VAC50-60-108. The remaining base fee balance shall be due prior to the issuance of coverage under the General Permit for Discharges of Stormwater from Construction Activities. When a site or sites are purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to the following table.

Fee type	Total fee to be paid by applicant (includes both VSMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid *)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or	\$290	\$81

sale with land-disturbance acreage less than one acre)		
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one acre and less than five acres)	\$2,700	\$756
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$4,500	\$1,260
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management - Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater From Construction Activities (This will be administered by the department)	\$15,000	\$15,000

* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Virginia Register Volume 26, Issue 9, eff. February 3, 2010; Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-825. Fees for the modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities.

The following fees apply to modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater from Construction Activities issued by the board. If the state permit modifications result in changes to stormwater management plans that require additional review by the VSMP authority, such reviews shall be subject to the fees set out in this section. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the state permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would

have applied for the total disturbed acreage in 4VAC50-60-820. No modification or transfer fee shall be required until such board-approved programs exist. No modification fee shall be required for the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects.

General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre)	\$20
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than one and less than five acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 100 acres)	\$700
Individual Permit for Discharges of Stormwater From Construction Activities	\$5,000

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 26, Issue 9, eff. February 3, 2010; amended, Volume 29, Issue 4, eff. November 21, 2012.

4VAC50-60-830. State permit maintenance fees.

The following annual permit maintenance fees apply to each state permit identified below, including expired state permits that have been administratively continued. With respect to the General Permit for Discharges of Stormwater from Construction Activities, these fees shall apply until the state permit coverage is terminated, and shall only be effective when assessed by a VSMP authority including the department when acting in that capacity that has been approved by the board. No maintenance fee shall be required for a General Permit for Discharges of Stormwater from Construction Activities until such board approved programs exist. No maintenance fee shall be required for the General Permit for Discharges of Stormwater from Construction Activities for a state or federal agency that is administering a project in accordance with approved annual standards and specifications but shall apply to all other state or federal agency projects. All regulated MS4s who are issued joint coverage under an individual permit or general permit registration shall each pay the appropriate fees set out below:

Municipal Stormwater / MS4 Individual (Large and Medium)	\$8,800
Municipal Stormwater / MS4 Individual (Small)	\$6,000
Municipal Stormwater / MS4 General Permit (Small)	\$3,000
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing	\$50

(Areas within common plans of development or sale with land-disturbance acreage less than one acre)	
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance equal to or greater than one acre and less than five acres)	\$400
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than five acres and less than 10 acres)	\$500
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land-disturbance acreage equal to or greater 100 acres)	\$1,400
Individual Permit for Discharges from Construction Activities	\$3,000

Statutory Authority

§§ 10.1-603.2:1 and 10.1-603.4 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 21, Issue 3, eff. January 29, 2005; amended, Virginia Register Volume 26, Issue 9, eff. February 3, 2010; Volume 29, Issue 4, eff. November 21, 2012.

FORMS (4VAC50-60)

Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1, DCR 199-149 (August 1990).

Department of Conservation and Recreation Permit Fee Form, DCR 199-145 (10/09).

Department of Conservation and Recreation Construction Activity Operator Permit Fee Form, DCR 199-213 (09/12).

Following his review of the Code and Regulations, Mr. Dowling noted that the biggest misunderstanding associated with the stormwater permit fees has been regarding how the fees were calculated and the associated local/state “split”. Some localities have suggested that the monies available to them for program implementation are being diluted by the split. He noted that the Department has endeavored to communicate to all localities that the fees represent 100% of the funding estimated to be necessary for both a locality and the Department to effectively operate their respective portions of a Stormwater Management Program. The two amounts were calculated independently and added together to come up with a total fee. Of this total amount due from the developer for the services being provided during the first year of the project, the fee split happens to work out to be 72% locality and 28% state; again each portion representing 100% of the calculated amounts needed by both entities to operate their respective portions of a stormwater management program.

He stated that during the regulatory process the response offered on this matter was as follows. The explanation holds true today as it did at the time (except the terms of art have evolved).

“The regulations establish fees that are sufficient to enable the administration of a local stormwater management program. These fees are based on survey data and cost estimates associated with the workload related to plan review, inspection, enforcement, and permit administration responsibilities. The 72% of the fee that is allocated to a qualifying local program represents 100% of the projected needs of the qualifying local program. In accordance with the revised regulations, localities may both establish a lesser fee or a higher fee with the approval of the Board if different fee levels are necessary.”

Mr. Dowling suggested that it would have been better if the Code and regulations never directly spoke to a percentage, they should have just cited the authority for the Localities and Department to develop a fee for the applicant that includes the necessary costs for both state and local programs to function without the reference to the percentage. The percentage was merely inserted for clarification at the time but has admittedly only lead towards continued confusion.

He also reiterated that should the project continue for several years, the locality (and not the state for locally administered projects), if they choose to do so, may collect an annual “maintenance” fee for the project until the project is terminated.

He also noted that what the fees do not cover, and it was recognized and deliberated by the Technical Advisory Committee at the time, was the ability to recover costs associated with long-term inspections and on-going maintenance after the land disturbing activity has been terminated. It was collectively determined that those costs would likely be covered by localities establishing stormwater utility fees as authorized in Title 15.2.

Mr. Dowling also explained that DCR’s fee will be utilized to cover ongoing costs associated with:

1. Conducting VSMP Program Audits;
2. Providing Program Technical Assistance;
3. Resolving Complaints;
4. Continuing Program Coordination and Development;
5. Involvement in Enforcement Actions;
6. Developing, Improving, Maintaining, and Supporting the Enterprise Website; and
7. Supporting the BMP Clearinghouse and Website

Virginia Stormwater ePermitting System

Mr. Seeley gave an update regarding the ePermitting system.

Mr. Seeley noted that the system had been revised so that the online permit will be only for the state fee. He said that the local fees will be a direct transaction between the developer and the locality. He said that this was done because a system could not be developed to handle both payments.

Mr. Seeley gave a demonstration of the ePermitting application process. He walked members through the website process.

Ms. Brumbaugh noted that in the GIS section, it might be difficult to outline projects.

Mr. Seeley said that the intent was to use a polygon symbol to show the hydrologic unit.

Local Program Development Grants

Ms. Block gave a presentation regarding local program development grants. She noted that in the 2012 session the General Allocated \$1 million for local governments. In addition almost a million was available in federal funding. She said that DCR was trying to fund as many localities as possible. All 59 submissions were funded. About 33% were fully funded.

Local Program Development Grants

- 100 localities awarded
- 10 regional partnerships cover 51 localities
- Total of singular entry awards = 48

Regional Locality SWM Grants

Sponsor	Localities	Award	Sponsor	Localities	Award
Accomac-Northampton PDC	Accomac, Northampton	\$42,000	Thomas Jefferson SWCD	Nelson, Louisa	\$50,000
George Washington RC	Caroline, Bowling Green, Port Royal, King George, Fredericksburg, Spotsylvania, Stafford	\$84,000	Northern Shenandoah PDC	Clarke, Page, Shenandoah, Warren	\$84,000
Region 2000	Appomattox, Amherst, Bedford, Campbell	\$84,000	Northern Shenandoah PDC	Clarke, Page, Shenandoah, Warren	\$84,000
Middle Peninsula PDC	Essex, Gloucester, King and Queen, King William, Matthews, Middlesex	\$99,857	Rappahannock Rapidan PDC	Culpeper, County and Town, Madison, Rappahannock, Greene, Orange	\$105,000
New River Valley PDC	Pulaski County and Town, Montgomery, Floyd, Glen Lyn, Pearisburg, Dublin	\$100,000	Prince Edward County	Prince Edward, Amelia, Buckingham, Charlotte, Cumberland, Lunenburg, Nottoway	\$100,000

Singular Locality SWM Grants

DCR has 59 agreements to localities and regional partnerships. All had a start date of December 1. The list of singular locality SWM Grants is available from DCR.

Fundamental Deliverables

All Due to DCR Project Manager no later than 4/1/13

1. Primary contact name
2. Preliminary Draft local SWM Ordinance
3. Draft funding plan and staffing plan

Specific Project Deliverables

- Some Projects have additional requirements based upon requests in proposal
- Detailed in agreements
- Funding reimbursed after expenditures
- All deliverables complete no later than June 2014 unless otherwise noted
- Assistance Needs: DCR Grant Manual and DCR assigned Project Manager

Beyond Current \$2M for Program Planning

- Almost \$1M budgeted in VA Chesapeake Bay Regulatory and Accountability Program Grant
- Governor's Budget Includes:
 - \$2.3M for Local Stormwater Programs
 - \$35M Bond for urban stormwater implementation

Tool Updates

Ms. Salvati addressed the Analysis of Local Funding Needs for the Local VSMP Programs. She presented a review of the Local Program Development Survey. Copies of her presentations are available from DCR.

Mr. Land asked what percentage of respondents indicated that no additional staffing would be required.

Ms. Salvati said that about 30% of respondents indicated current staffing levels were sufficient.

Mr. Land asked if the RFP included a suggested upper limit regarding grant requests.

Ms. Snead said that the range provided was \$10K - \$100K.

Mr. Goulet said that this was not an indication of what the program would actually cost, but what funding was available.

Ms. Snead said that these numbers were just for the first year.

Ms. Salvati reviewed the conclusions from the survey.

Conclusions

- Majority of respondents to Survey identified funding needs ranging from < \$5,000 - \$50,000 for:
 - Program support
 - Program development
 - Ordinance development
 - Training
- Identified funding needs reported for staffing ranging from \$10,000 - > \$100,000
- Per the RPF, Proposals represented program development tasks
- Majority of grant requests (30) ranged from \$10,000 - \$50,000
- Ten proposals requested \$100,000 or greater in funds – most of these were for regional programs

Ms. Snead said that the next meeting would likely be scheduled in March following the General Assembly Session.

The meeting was adjourned.