

**Stormwater Local Government Advisory Committee
Thursday, March 21, 2013
12th Floor North Conference Room, Main Street Center
Richmond, Virginia**

Stormwater Local Government Advisory Committee Members Present

Barbara Brumbaugh, City of Chesapeake
Debbie Byrd, Goochland County
Todd Flippin, Augusta County
Lee Hill, Joyce Engineering
Steve Hubble, Stafford County
Jenny Johnson, Joyce Engineering
Sam Johnson, Northern Neck SWCD
Larry Land, VACO
Dan Rublee, City of Harrisonburg
Alyson Sappington, Thomas Jefferson Soil and Water Conservation District
Ginny Snead, DCR
Brian Stokes, Campbell County
Bill Street, James River Association
Richard Street, Virginia Soil and Water Conservation Board
Jenny Tribo, Hampton Roads Planning District Commission
Keith White, Henrico County
Joe Wilder, Frederick County
Jason Widstrom, City of Falls Church

Agency Staff Present

Gerry Seeley, DCR
Joan Salvati, DCR
Matt Gooch, Office of the Attorney General
Michael R. Fletcher, DCR
Shawn Smith, DCR
John McCutcheon, DCR
Scott Crafton, DCR
James Golden, DEQ
Drew Hammond, DEQ
Melanie Davenport, DEQ

Welcome and Introductions

Ms. Snead welcomed members and staff. She noted that the SLGAC had officially been meeting for one year. She thanked members for their participation.

Update on DCR Relevant Activities and Regulatory Actions

Ms. Snead gave an update on DCR activities.

Regarding the DCR/DEQ consolidation Ms. Snead said that the General Assembly had authorized the transfer of stormwater management programs from DCR to DEQ effective July 1, 2013. She said that the local program development would be moving to DEQ. She noted that the agricultural programs would stay with DCR.

Mr. Wilder noted that the regional offices for DEQ and DCR did not align. He asked if localities would still work with the same offices.

Ms. Snead said that localities would work with the same personnel. She said that there may be personnel changes in the future but at this point locations were not changing until leases come up for renewal.

Ms. Snead said that a bill sponsored by Delegate Cosgrove allowed the adoption of more stringent stormwater measures at the locality level. She said that DCR would be developing guidance and more information regarding this measure.

Ms. Snead said that the budget included one million dollars for local program development. She said that in a similar manner to the previous year DCR would be issuing an RFP for these funds.

Ms. Snead said that with regard to the Construction General Permit regulations, DCR was developing guidance for the SWPPP template for any lots that are subject to a common plan of development. This was to aid in compliance. She said that this would be developed in draft form over the next several months.

Ms. Snead said that the Construction General Permit regulations were submitted to the Regulatory Town Hall.

Ms. Snead introduced Drew Hammond from DEQ. She noted that Doug Fritz who had been handling the Construction General Permit was no longer with DCR. She noted that Mr. Hammond would be assuming responsibilities for the Construction General Permit.

Ms. Snead said that the Nutrient Trading Regulatory Advisory Panel had been meeting to draft regulations for this new program. She noted that the next meeting was set for April 15.

Fees/ePermitting

Ms. Salvati noted that at the last meeting the SLGAC had heard a presentation from David Dowling with regard to fees. She said that there had been a number of questions from localities.

Authority and Purpose of VSMP Fees

- Management Act - §10.1-603.4.5

Authority: Stormwater

- Requirement: Establish by regulations, with the concurrence of the Director, a statewide permit fee schedule for land-disturbing activities of one acre or more to cover:
 - Plan review and approval
 - Construction inspection
 - Record keeping/tracking
 - General Permit coverage issuance
 - General Permit enforcement
 - Long-term post-construction
 - compliance monitoring & enforcement
 - Receipt of permitting and program administration fees

Basis of Fees

- **Economic Impact Analysis of** Revisions to the Virginia Stormwater Regulation – Final Report1 – Kurt Stephenson, Professor, Virginia Tech, Bobby Beamer, Economist, BBeamerLLC
 - Survey of local stormwater and erosion and sediment control programs in the summer of 2006
 - Interviews conducted with staff for 7 large stormwater programs within the Chesapeake Bay Preservation Act area
- June – September 2008 – **Technical Advisory Committee (TAC)** held 5 meetings to assist DCR with the development of the fee schedule – Part XIII of the VSMP regulations
- March – April 2008 – **Public Comments on Part XIII** – draft fee schedule
- Significant local government feedback that fees should be based on actual costs of administering a stormwater program

Flexibility in Establishing the Fees §10.1-603.4 5 b.

- VSMP to assess the statewide fees schedule
- VSMP has the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges
- In no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight
- A VSMP’s portion of the fees shall be used solely to carry out the VSMP program responsibilities
- VSMP retains 72% of fees collected
- 28% of the fees are for DCR’s oversight and assistance

- Localities are able to maintain other, existing fees (plan review, land disturbance permits)

State Permit Fee Schedule

- Once local programs are approved and in operation, the following fees will apply:

	<u>Initial</u>	<u>Maintenance</u>
2,600 sqft < 0.5 acre =	\$290	\$50
Comm. POD < 1 acre =	\$290	\$50
≥ 0.5 acre < 1 acre =	\$1,500	\$200
≥ 1 acre < 5 acres =	\$2,700	\$400
≥ 5 acres < 10 acres =	\$3,400	\$500
≥ 10 acres < 50 acres =	\$4,500	\$650
≥ 50 acres < 100 acres =	\$6,100	\$900
≥ 100 acres =	\$9,600	\$1,400

Local governments can gain approval from the Board to have lower or higher fees; however DCR's portion of is based on the 28% of the published initial fees.

VSMP Adoption Schedule

- **December 13, 2012** – First date localities may adopt a VSMP (15 months from effective date of stormwater management regulations)
- **April 1, 2013** – Localities submit 12-month extension requests with draft stormwater programs demonstrating substantive progress
- **June 6, 2013** – VSWCB consideration of 12-month extension requests
- **June 13, 2013** – Final VSMP adoption date, without 12-month extension (21 months from the effective date of the stormwater management regulations)
- **December 15, 2013** – Localities submit preliminary local VSMP application packets for final review by DCR
- **April 1, 2014** – Final adopted VSMP ordinances submitted for review by DCR
- **June 2014** – Final date for Board approval of local VSMPs

Mr. White said that his understanding was that fees did not cover any locality costs beyond permit termination.

Ms. Salvati said that her understanding from Ms. Snead and Mr. Dowling was that the fees were designed to cover operations and maintenance.

Ms. Sappington said that was not the intent from the RAP and that the RAP made that clear when the fee schedule was developed. She said that the intent was to make sure the installation was done correctly.

Ms. Salvati said that she would check into what had been documented with regard to the actual intent.

Ms. Snead said that the fee schedule was established in the regulations. She said that DCR would review what steps were needed to move forward.

A member asked if a permit was never issued how the locality could cover the plan review fee. The member asked if the locality could implement the fees so that the locality was compensated for the review of the plans.

Ms. Snead said that the regulations are written to address the cost of plan review. She said that the intent was that localities would retain the first portion of the fees and that DCR would receive payment through the ePermitting process.

Mr. Hubble said there had not been a clear answer given with regard to localities that already operate stormwater programs. He said the authority to charge fees for an alternative program had been removed from the state Code. He said that there remained a lot of confusion at the local level.

Mr. Gooch said that he would review the legal options.

Ms. Snead said that with that opinion DCR would develop guidance with regard to what fees would cover and what happens to fees already charged.

Ms. Brumbaugh noted that with regard to the economic analysis the data was now several years old. She said that she was not sure the numbers were still appropriate. She said that was another reason that it was important for localities to know if they can keep existing fees.

Ms. Salvati said that when working with localities, DCR recommends that they review development activity and assess the projected work load. She said that one of the important data points for funding was the staffing plan for the locality.

Mr. Rublee said that it was difficult to look at the overall cost because of the economic factor. He said that it almost had to be evaluated on a per project basis.

Ms. Snead said that she understood the concern and that DCR would work to help localities in this regard. She said that flexibility was intentionally built in to address these concerns.

Mr. Johnson noted that fees throughout the state are not parallel.

Ms. Salvati said that programs will be different, staffing levels will be different. She said that the suggestion was that localities begin to work on their final plan. She again stated that there was flexibility in the establishment of fees.

Mr. Richard Street said that localities and Board members want more detail with regard to fees.

With regard to ePermitting, Mr. Seeley said that the program was now in the alpha version and was close to being ready to test statewide.

He noted that with regard to fees any fees that are collected locally would still be collected locally.

Mr. Seeley gave a demonstration of the ePermitting process.

Mr. Seeley said that DCR or DEQ would be developing an online training portion for the ePermitting process.

Training Update

Mr. McCutcheon said that DCR was working on a plan for training. He said that progress had been made but much remained to be done.

Mr. McCutcheon said that there was a need to certify people in the VSMP program as inspectors, plan reviewers and administrators. He said that the plan was to begin training in the late spring in order to have a full year of training before the program was implemented locally.

Mr. McCutcheon said that the plan was to complete the training in a similar manner as the Erosion and Sediment Control training. The intent is for two days of basic training covering stormwater issues and how they are managed, with a focus on the VSMP. Training would also address the legal authorities for the program.

Mr. McCutcheon said that a schedule for training would be developed in the next couple of weeks.

A member asked if there would be combined training with Erosion and Sediment Control certification.

Mr. McCutcheon said that the intent was to offer administrator training with a dual certificate in Erosion and Sediment Control and Stormwater Management.

A member asked if there was a preliminary fee schedule for the training classes.

Mr. McCutcheon said that was still being developed.

Handbook/VTAP Update

Mr. Crafton said that DCR had contracted with the Center for Watershed Protection for development of the last three chapters of the handbook. When those are completed, following an internal review the document will be posted for public comment. He said that the intent was to have the handbook available in PDF format in early summer. There will be no charge for the document. It will be available for downloading from the DCR/DEQ website.

Mr. Crafton noted that the handbook includes a new runoff reduction method and spread sheet as well as other new BMPs.

Mr. Crafton said that the last chapter, specifically the spreadsheets will be significantly improved and easier to use.

Mr. White asked if there were any legal issues with regard to changing the runoff reduction spreadsheets.

Mr. Crafton said that the changes were not substantive.

Board Local Adoption Schedule

Ms. Salvati noted that members were sent a copy of the adoption schedule. A copy of this schedule is available on the DCR website.

Ms. Salvati said that DCR would be sending out a reminder regarding the April 1, 2013 deadline.

A member asked if DCR would be giving feedback to the localities.

Ms. Salvati said that DCR would be addressing concerns with the localities.

Ms. Brumbaugh asked about the designation of an administrator. She noted that in Chesapeake the functions were split between departments.

Ms. Salvati said that the intent was just to name the person or persons responsible for program specifics. She said that could be multiple persons.

Mr. Seeley said that there would be a main contact person but there was no limit on the number of administrators designated.

Committee Issue Identification and General Questions

Mr. Hubble said that the issue of enforcement had not been addressed. He expressed concern over the notion of civil and criminal penalties. He noted that localities have not had to address that in the past.

A member asked that with regard to plans for a single family development or with regard to plans with a common plan of development that a template be developed for an agreement in lieu of a plan.

Ms. Snead said that DCR could not do that for the VSMP. She said that a template was being developed for the SWPPP for those projects that are part of a common plan of development.

Next Meeting

Ms. Snead said that the next meeting would likely be in May. She said that she would inform members as soon as a date was selected.

Public Comment

There was no additional public comment.

There was no further business and the meeting was adjourned.