

**Stormwater Local Government Advisory Committee
Wednesday, May 15, 2013
Department of Environmental Quality, Central Office
Richmond, Virginia**

Stormwater Local Government Advisory Committee Members Present

Barbara Brumbaugh, City of Chesapeake
Debbie Byrd, Goochland County
Erin Hawkins, City of Lynchburg
Steve Hubble, Stafford County
Normand Goulet, NRVC
Sam Johnson, Northern Neck SWCD
Bill Johnston, City of Virginia Beach
Larry Land, VACO
Bruce McGranahan, Fairfax County
Dan Rublee, City of Harrisonburg
Ginny Snead, DCR
Bryan Stokes, Campbell County
Jenny Tribo, Hampton Roads Planning District Commission
Keith White, Henrico County

Agency Staff Present

Melanie Davenport, DEQ
Michael Fletcher, DCR
Larry Gavan, DCR
Walter Gills, DEQ
Drew Hammond, DEQ
V'lent Lassiter, DCR
John McCutcheon, DCR
Joan Salvati, DCR
Gerry Seeley, DCR
Shawn Smith, DCR
Kevin Vaughn, DEQ
Matthew Gooch, Office of the Attorney General

Others Present

Scott Flanagan, Chesterfield County
Jack Frye, Chesapeake Bay Commission
Lee Hill, Joyce Engineering
Scott Jackson, Henrico County
Jenny Johnson, Joyce Engineering
Adrienne Kotula, James River Association

John Mulligan, Henrico County
Diana Parker, Chesterfield County
Jeff Perry, Henrico County
Doug Pritchard, Chesterfield County

Welcome and Introductions

Ms. Snead called the meeting to order and thanked members for coming to the 10th meeting of the Stormwater Local Government Advisory Committee.

Update on DCR Relevant Activities and Regulatory Actions

Ms. Snead gave an update regarding DCR activities.

Phase II Local Program RFP

- Required Elements: Preliminary Final and Final Submissions to DEQ
- Match Required
- Anticipated Timeline
 - June 4 RFP Release Date
 - June 15 Proposals Due to DEQ
 - Late August Award Announce/Public Comment
 - October 1 Contract Start Date

Ms. Snead introduced Walter Gills with DEQ. Mr. Gills works with grants and the bond initiative.

Mr. Gills said that DEQ and DCR had been working together to make the transition seamless. Staff is working on guidelines for develop projects. These will be submitted to the State Water Control Board.

MS4 Regulatory Update

- Arlington
 - Addressing Public Comment
 - Final June?
- MS4 GP – July 1, 2013
- Other MS4 Phase 1s
 - Prince William
 - Chesterfield
 - Henrico

Ms. Snead said that there were no anticipated changes in the Arlington Permit. The timeline for completion was the end of June.

Ms. Snead said that drafts have been submitted for the Prince William and Chesterfield Permits. The target for the draft for Henrico was the end of May.

Nutrient Credit Certification RAP Update

- 5 Meetings have been held
 - Draft Regulations for Admin Procedures
 - Continuing Discussions on Baselines and Calculations
 - Begin Local Water Quality Discussion
- Next meeting May 21, 2013
- NOIRA
 - Nutrient Credit Certification Regulations – Banking
 - Stormwater Regulations for Credits

Other Relevant Items

- Construction General Permit
 - Public Comment April to June 7
 - Public Hearings (3) Mid May
 - EPA Negotiations

Ms. Snead said the hope was to take the final Construction General Permit to the State Water Control Board in December.

Ms. Snead said that the Stormwater Handbook was still in draft form but the hope was to have it completed in June.

- DCR/DEQ consolidation

Ms. Davenport said that because the way administrative timing works staff who are transferring from DCR would be with DCR as of June 25. She said that DEQ was currently moving offices and making space.

Ms. Davenport said that the intent of the consolidation was to make the agency more efficient. She said that the full consolidation process would take three to six months.

Training Update

Mr. McCutcheon and Mr. Vaughan gave an update regarding erosion and sediment control training.

Mr. McCutcheon said that there had not been significant changes since the last meeting. He said that staff was still working out the details of a 2-day class that will cover introductory aspects and training. Six dates for training have been scheduled.

Mr. Vaughan said that the goal was to train individuals in the most effective way. He said that mandatory certification classes will be delivered around the Commonwealth. He said that the trainings would cover necessary infrastructure and resources. He said the trainings would be offered over the course of about eight weeks time.

Ms. Brumbaugh asked if there was a fee for the initial training. Mr. Vaughan said there was not.

Mr. Hubble said that at this point it was difficult to determine who should be attending the initial training.

Ms. Snead said that the intent was that this would be initial training for those who need to be certified for plan review, inspection and for program administrators.

Mr. McCutcheon said that there was no requirement for program administrators to be certified, but that individuals who issue certificates will need the certification. He said that DCR would recommend that administrators attend the basic classes.

Mr. Goulet said that it would be helpful to have guidance regarding who should attend the initial training.

Mr. McCutcheon said that staff was developing a list of names and contacts regarding those who should receive the training information.

ePermitting

Mr. Seeley gave an update regarding ePermitting.

Mr. Seeley said that no permits would be issued until the ePermitting system is operational.

Mr. Seeley said that the ePermitting program had to be recalibrated. The contract was not renewed. VITA has allowed the contract to extend until August 31 but DCR/DEQ will not be able to work with the company after that point. He said that in order to finish goals, timeframes had to be truncated.

Mr. Seeley said that the system was addressing basic functionality to allow permits to be applied for and processed online.

Mr. Seeley said that there would be online training videos. There will also be a public web page for gathering data from the system.

Mr. Seeley said that the beta version will include inspection forms, compliance information, long term BMP inspection and compliance tracking. He said those portions of the system will be developed through a different contract. He said that would likely not be available until July 1, 2014.

Mr. Seeley said that the basic program will have to be completed by the end of July 2103.

Mr. Rublee asked if the program would allow for online payment.

Mr. Seeley said that the decision was made that the only online payment would be payment to DCR. The local portion will be paid directly to the locality.

Local Program Development Update

Ms. Salvati gave the Local Program Development Update. She thanked localities who had submitted substantive progress packets for the 12-month extension.

Ms. Salvati presented the following:

Virginia Stormwater Management Program (VSMP) Fees

Presentation Overview

- Authority for, and purpose of, the establishment and use of the State VSMP fee schedule by localities
- Basis for the State fee schedule
- Local flexibility for the level of fees
- Fees and ePermitting

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 |

Authority & Purpose of Virginia Stormwater Management Program (VSMP) Fees

- Authority: Stormwater Management Act - § 10.1-603.4.5: “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.”

- Purpose: The fees are established to cover all costs associated with the implementation of a VSMP.

Authority for Flexibility for VSMP Fees

- § 10.1-603.4.5b “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...”
- 4VAC50-60-700: A VSMP authority may establish greater fees than those base fees specified by [the regulations] should it be demonstrated to the board that such greater fees are necessary to properly administer the VSMP.
- 4VAC50-60-700: Nothing in [the Regulations] 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 [Stormwater Management] Act.

What the Permit Fees Cover

- 4VAC50-60-700: Fees for coverage under the General Permit for Discharges of Stormwater from Construction Activities are to cover “all costs associated with the implementation” of a VSMP by a VSMP authority. Such fee attributes include the following:*
 - Plan review
 - Registration statement
 - review
 - Permit issuance
 - State-coverage
 - verification
 - Inspections
 - Reporting and database
 - management
 - Compliance activities
 - associated with land disturbing activities
 - Program oversight
 - State Permit
 - maintenance, modification, and transfer

* Above listed fees attributes are based on 4VAC50-60-700 (Purpose) of the VSMP regulations.

Basis of Fees

- Economic Impact
Analysis of Revisions to the Virginia Stormwater Regulation – Final Report – Kurt Stephenson, Professor, Virginia Tech, Bobby Beamer Economist
 - Survey of local stormwater and erosion 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

Ms. Brumbaugh said that it would be helpful to have an explanation of what the state portion of the fees would cover. She said that her understanding had been that the maintenance fee is optional.

Ms. Salvati said that the regulations do not allow for the maintenance fee to be optional.

Ms. Snead said that this concern would be covered during the discussion of VSMP permit considerations later in the meeting.

Ms. Salvati continued with the presentation.

Other Key Provisions Regarding VSMP Fees – 603.4 A 5 b.

- VSMPs shall have 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.
- DCR's portion of the fees are for oversight and assistance and is to be based on the State Fee Schedule.
- Localities are able to maintain other program related charges.

State permit maintenance fees

- 4VAC50-60-830:
Maintenance fees shall apply until the state permit coverage is terminated, and shall only be effective when assessed by a VSMP authority
- §603.4(A)(4)(b): As
maintenance fee provisions are part of the “statewide fee schedule” that localities must adopt, local VSMPs are also required to adopt the maintenance fees set for 4VAC50-60-830. Localities also have the authority to reduce or increase such fees pursuant to this provision.

ePermitting Timeframe Targets

- user testing July 2013: Statewide
- made based on user testing August 2013: Changes
- Statewide user training September – December:
- available for permit reissuance applications January 2014: System
- available for new permit applications April 2014: System

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 packages 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 asked if localities should still contact with regional offices with regard to questions concerning ordinance language.

Ms. Salvati said that localities should work with regional offices and that there would not be immediate changes within those offices when the program is transferred to DEQ. She said that beginning July 1; staff would be reaching out to localities to work with them to submit draft ordinances. She said that the intent was that by December 15, localities would be comfortable with the submission.

Ms. Snead said that these were targeted deadlines. She said that information could be submitted earlier, but that ordinances must be adopted by April 1, 2014.

VSMP Permitting Considerations

Ms. Snead said that in the General Permit were concerns regarding carry over provisions from the previous permit. She said that based on questions regarding ePermitting staff had been discussing the option of a transition period fee waiver. If an applicant applies for a permit within a year of getting permit coverage, the applicant would not have to pay the next permit fee.

Ms. Snead said that staff did not want to include the fee waiver in the general permit. She said that the provision was currently included for public comment and that the issue would be brought before the State Water Control Board at their September meeting.

Ms. Snead said that the second consideration was whether DCR or DEQ would be responsible for localities. She said that currently there were about 7,700 active permits under the VSMP and about 11,000 under the Bay Act. She said that DCR does not have the resources to run the program effectively. She said that allowing local control would allow localities access to the construction sites.

Ms. Byrd said that a concern for localities was the hiring of new people to administer the programs. She said that training new employees would be a concern.

Mr. White said that the other issue would be enforcement.

Ms. Brumbaugh said that there were many sites that should have VSMP coverage but do not. She asked how that would be addressed by DEQ.

Ms. Davenport said that there needed to be clarification regarding who would enforce a federal permit issued by the state.

Ms. Snead said that a plan would need to be developed regarding lots in common plans of development that do not have coverage.

Ms. Brumbaugh said that if these lots do not have coverage by July 2014 that it will become a locality issue.

Mr. Rublee said that his understanding had been that there would be a more specific definition of common plan of development.

Ms. Snead said that had been discussed but ultimately the decision was made in the proposed general permit to stick with the federal definition for the regulations and to provide further definition through guidance.

Next Meeting

Ms. Snead said that the next meeting would likely be in August, 2013. She said that staff would contact members regarding potential dates.

Mr. Goulet said that it would be helpful to have the list of permits prior to that meeting for the purposes of comparison.

There were no further comments and the meeting was adjourned.