

Virginia Agricultural BMP Technical Advisory Committee

Virginia Department of Forestry Headquarters
900 Natural Resources Drive, Charlottesville, VA 22903

August 14, 2019

9:30am – 12:00pm

Attendance:

Chris Barbour, Skyline SWCD	Adrienne Kotula, Chesapeake Bay Commission
Gary Boring, Area IV Chair	Matt Kowalski, Chesapeake Bay Foundation
Robert Bradford, Area II Representative	Nick Livesay, Lord Fairfax SWCD
David Bryan, DCR	Aaron Lucas, Headwaters SWCD
Ben Chester, DCR	Darrell Marshall, VDACS
Anne Coates, Thomas Jefferson SWCD	David Massie, Culpeper SWCD
Raleigh Coleman, DCR	Amanda McCullen, Culpeper SWCD
Sharon Conner, Hanover-Caroline SWCD	Rachel McCuller, Headwaters SWCD
Debbie Cross, DCR	Martha Moore, Virginia Farm Bureau
Megen Dalton, Shenandoah Valley SWCD	Charles Newton, SWC Board/Shenandoah Valley SWCD
Elizabeth Dellinger, Shenandoah Valley SWCD	Amanda Pennington, DCR
Brandon Dillistin, Northern Neck SWCD	Allyson Ponn, Lord Fairfax SWCD
Stephanie Drzal, DCR	Jim Riddell, Virginia Cattlemen's Association
Kevin Dunn, Piedmont SWCD	Beck Stanley, Virginia Agribusiness Council
Jim Echols, DCR	Carrie Swanson, VCE
Mary Eiserman, Thomas Jefferson SWCD	Jim Tate, Hanover-Caroline SWCD
Steve Escobar, Virginia Horse Council	Carl Thiel-Goin, DCR
Darryl Glover, DCR	Sam Truban, Lord Fairfax SWCD
Dana Gochenour, Lord Fairfax SWCD	Amy Walker, DCR
Dan Goehrlich, VCE	Josh Walker, Headwaters SWCD
Todd Groh, DOF	Bob Waring, DCR
Tim Higgs, VDACS	Ashley Wendt, DEQ
Bryan Hoffman, Friends of the Rappahannock	Greg Wichelns, Culpeper SWCD
Mark Hollberg, DCR	Charlie Wootton, Employees Assn. Rep (OCB)
Alston Horn, Chesapeake Bay Foundation	Jim Wright, Area VI Back-Up
Anna Killius, James River Association	Spencer Yager, Employees Assn. Rep. (CB)
Stephanie Kitchen, Virginia Farm Bureau	

Meeting Opened – 9:30am

Welcome, Review of Agenda, and Rules Reminder (David Bryan)

Mr. Bryan welcomed the BMP TAC and gave an overview of the agenda. He briefly summarized the rules as follows:

- The first time an item has reached a consensus in the subcommittee, it is brought forward to full TAC for discussion/comments, and then it goes back to the subcommittee to make any changes as needed based on feedback.

- When the item is brought back to the full TAC in the subsequent TAC meeting, it is voted on “as-is” by the full TAC. If the item passes with 80% support from the TAC, it is carried forward to the Soil & Water Board. If the item fails to reach 80% support from the TAC, the item can be amended (if only a minor issue) or sent back to the subcommittee.
- If the TAC cannot agree to send the item forward to the SWB, amend it, or send it back to the subcommittee, the item will be automatically tabled.

Every subcommittee chair will present items that are up for full TAC votes first (which were items that were presented in July) and then present other items that the subcommittee has voted on for first-time consideration by the full TAC.

The number of voting members present was counted. With 40 voting members present, a quorum was established, and any items up for a full TAC vote need 32 votes of support to reach the 80% threshold.

Subcommittee Reports

Animal Waste (Amanda Pennington)

Mr. Bryan introduced Ms. Pennington at 9:34am for the Animal Waste Subcommittee Report. Ms. Pennington presented four matrix items up for consideration by the full TAC:

- 3A: The subcommittee has voted to allow up to 12 months of storage for layer/breeder operations based on existing need. The item was voted on by the full TAC and passed unanimously (40 y, 0 n).
- 4A: The subcommittee defined “loose housing”, “free stall”, and “bedded pack” for insertion in the Manual Glossary. The item was voted on by the full TAC and passed unanimously (40 y, 0 n).
- 5A: The subcommittee has voted to allow the WQ-12 practice for one “carryover” because there may be instances where a WQ-12 is being installed concurrently with other structural practices. The item was voted on by the full TAC and passed unanimously (40 y, 0 n).
- 6A: The subcommittee has voted not to adjust/create VACS practices specific to equine operations because they working on the WP-4L that can be used for some equine practices. Ms. Swanson and Mr. Tate expressed concerns in voting on the subcommittee’s recommendation before hearing about the WP-4L because they would be voting without knowing about the alternative. Ms. Pennington agreed to go ahead and present the subcommittee’s preliminary ideas regarding WP-4L before the full TAC vote on Item 6A.

Ms. Pennington presented the subcommittee’s preliminary ideas for WP-4L for feedback so that the subcommittee would have a general idea how to proceed in drafting the practice specification. She explained that the WP-4L would work for any type of livestock (e.g., horses, beef cattle, etc.). WP-4B will still be available for dairies. The WP-4 would be amended to be a practice only for manure storage (e.g., dry stack or liquid pit); the feeding area that is currently an option in the WP-4 would be moved over to the WP-4L. Within the WP-4L, there will be four options:

- **Option 1:** This option is for a seasonal feeding facility (4-6 months out of the year) with attached manure storage (which is currently allowed under the WP-4). Because a simple feeding facility will not address the resource concern for operations that are overstocked, this option would require a minimum of 2 acres of pasture per animal unit. Multiple herds from other locations can be consolidated for winter feeding as long as total acreage is 2ac/AU or all acreage is

included in a specific grazing plan to manage pasture properly. The feeding pad will not exceed 75sq.ft.per animal unit. Watering facilities will not be prohibited in the structure, but the watering facilities will not be eligible for cost-share. Underground storage (e.g., slatted floors) will be an option but the cost-share will only be based on the “least-cost technically feasible” option. All grazeable land associated with animals served by the structure must have all streams excluded before the contract is paid.

The question was asked whether or not this is confined feeding. Ms. Pennington clarified that there is another option for confined feeding operations, but this option is an open facility for the livestock to ingress and egress freely. The feeding area will have a roof as currently allowed under the WP-4.

- **Option 2:** This option is just a concrete or gravel feeding pad. This option is intended for smaller operations that cannot afford or do not have a need for larger buildings. Ms. Pennington mentioned that a stand-alone feeding pad is currently only an option through SL-6 practices, and it is difficult to include in the SL-6. The feeding pad would be capped at a maximum of 75sq.ft. per animal unit. This is for feeding in inclement weather.

Ms. Cross asked if the feeding pad option will be removed from the SL-6. Ms. Pennington stated that this is up to the stream protection subcommittee, but that would be her recommendation.

Mr. Wootton asked if the “Needs Determination Worksheet” would still be used to determine eligibility for the feeding pad. Ms. Pennington stated that they would, but that the subcommittee may look at revising this worksheet and the “Risk Assessment Worksheet” at some point in the future because of ambiguity and the fact that it rewards bad behavior.

Mr. Hollberg asked if a gravel access road to access the pad would be an option under the practice. Ms. Pennington said that the subcommittee would consider this.

- **Option Three:** This option is for 100% confinement, because there are times when confinement is the only way to address the resource concern and protect water quality. The structure can be managed as a bedded pack or manure pack based on the producer’s preference. No grazing plan is required and there is not maximum stocking rate because the livestock are confined at all times and do not have access to pasture. Underground storage (e.g., slatted floors) will be an option but the cost-share will only be based on the least-cost technically feasible option. The area where livestock are removed from must be restored/stabilized and maintained. The question was raised as to whether the stabilization requirement also includes streambanks. Ms. Pennington said that the subcommittee has not talked about that yet. Mr. Wichelns asked if it is presumed that livestock have unbridled access to the stream. Ms. Pennington stated that the practice does not presume that. Mr. Wichelns asked if one could be eligible for this practice if they already have an SL-6 on the land and they are overgrazing. Ms. Pennington mentioned that that could be possible if they are incredibly overstocked, but most folks with an SL-6 are implementing a grazing plan and are not overstocked. This practice is intended to address the overstocking issue. Ms. Cross asked how it would be handled if a 100% confinement facility is installed with cost-share and then during spot-checks livestock are found out in the field that was addressed with the WP-4L. Ms. Pennington mentioned that that needs to be written into the practice specification that it would be a violation. She stated that fields where livestock have been removed from as part of the WP-4L cannot be used for livestock production for the lifespan of the WP-4L. The land can be cropped or hayed but not grazed. If the land is converted to cropland, the land would be required to have a conservation plan and compliance checks. Mr.

Hollberg asked if the producer had an existing SL-6 and installed a WP-4L which removed the livestock from the SL-6 acreage, would that producer have to pay back the pro-rated portion of the SL-6? Ms. Dalton explained that the subcommittee had discussed this and as long as the SL-6 components were being maintained, then the producer would not have to pay back the pro-rated SL-6 cost-share. Mr. Tate asked about stipulations regarding time frame for total confinement, e.g., a cow/calf operation where calves are weaned and backgrounded. Ms. Pennington and Mr. Dunn explained that Option 3 is really only for extreme overstocking situations where complete livestock removal from the pasture is the only solution. Other types of operations might be addressed using another option. Ms. Pennington mentioned that the compliance check frequency/requirements for the practice would be written into the practice. Concerns from the floor expressed the importance of compliance checks and making sure that any management problems are followed up on. Mr. Dunn explained that if issues are found, the same follow-up procedure that is currently used for annual verifications would likely be followed, and then they would also be subject to more frequent future inspections. Mr. Tate asked if this practice would be eligible to overstocked equine boarding operations. Ms. Swanson stated that they would typically not be eligible since they are typically 100% confinement. Mr. Escobar mentioned that the next option (Option 4) would be more appropriate for these operations. Ms. Swanson stated that Option 3 might be an option for other types of equine operations (e.g., racing barns) where the livestock are 100% confined.

- **Option 4:** This is a loafing lot management system where there are small lots to turn the livestock out for exercise. Underground storage (e.g., slatted floors) will be an option but the cost-share will only be based on the least-cost technically feasible option. There would be a minimum requirement of 3 grassed lots and a sacrifice lot. The sacrifice lot can be a building or a hardened lot. A minimum of 60% cover must be maintained on the grass lots. All streams must be fenced out with a minimum 35-ft. buffer. There needs to be an animal unit per acreage restriction, but time spent on pasture is important; management will be key to this option, and the subcommittee will be working on incorporating this in the specification. Ms. Pennington clarified that the SL-6A is a grazing option, but this WP-4L Option 4 is not intended to be a grazing system.

Ms. Swanson asked if the subcommittee considered manure storage related to equine operations. Ms. Pennington stated that manure storage is an option in these WP-4L practices, and currently equine operations can be eligible for manure storage under the WP-4 (assuming they qualify for the program). This is why the subcommittee elected not to change any current VACS practices to be equine-specific.

Ms. Sloop asked if all of the WP-4L options require stream exclusion. Ms. Pennington said that yes, they would require stream exclusion.

Ms. Pennington circled back to Item 6A since the WP-4L had been discussed. The vote was called for, and the subcommittee's recommendation passed unanimously (40 y, 0 n). No new equine-specific practices will be created.

There are currently no schedule animal waste subcommittee meetings.

Stream Protection (Mark Hollberg)

Mr. Bryan introduced Mr. Hollberg at 10:12am for the stream protection subcommittee report. Since the Stream Protection Subcommittee had not met prior to the July TAC meeting, no recommendations will be voted on by the full TAC at this time. Five items were voted on at the July 30 meeting of the stream protection subcommittee and are being presented to the full TAC for primary consideration:

- 1S: The subcommittee has voted to table this issue and allow Districts to handle this on a case-by-case basis at the individual district level.
- 2S: The subcommittee has voted to table this issue since they felt that the Cover Crop Subcommittee was already dealing with this issue.
- 3S: The subcommittee has voted to table this issue, feeling that the 75% cost-share is not insufficient and is generally consistent with other cost-share practices.
- 4S: The subcommittee has voted to table this issue since it should be common understanding that “double driveway fencing” is not the “least-cost technically feasible” option for planning a practice. They felt that this is something that can be handled with training rather than making the program manual longer.
- 5S: The subcommittee has voted to table this issue, feeling that there are already answers available to all but the last question, which will be dealt with in Item 6S. For the first part of the question regarding a situation where only one side of the stream is under control of the applicant, they may be eligible to participate in a stream exclusion practice if they can protect the buffer that is established from grazing. The subcommittee does not feel that this is necessarily “boundary fence” that would not be eligible for cost-share. The last part of #5S (regarding clarifying what “waters” can and cannot be excluded) will be addressed under Item #6S.

Mr. Hollberg provided updates on two other matrix items which have not yet had formal action from the subcommittee:

- 6S: The subcommittee will spend time discussing this further and has not taken any action yet.
- 7S: The subcommittee will spend time discussing this further and has not taken any action yet.

The next stream protection subcommittee meetings will be held on Thursday, August 29, and Tuesday, September 24, beginning at 9:30am at the Staunton DCR office.

Break: 10:30am – 10:51am

Nutrient Management/Cover Crop Subcommittee (Stephanie Drzal/Bob Waring)

Mr. Bryan reminded the TAC that the Nutrient Management and Cover Crop Subcommittees have been combined this year. Mr. Bryan introduced Stephanie Drzal for the Nutrient Management portion of the subcommittee report. All nutrient management items were presented to the full TAC at the July meeting so all items are up vote by the full TAC this time.

Ms. Drzal stated that item #4N regarding “double-dipping” is being covered elsewhere by the Programmatic Subcommittee so it is not being covered by her subcommittee at this time. She presented the following for full TAC votes:

- 1N: The revised SL-1 language regarding the nutrient management plan requirement was presented for a vote. Mr. Dunn asked for clarification as to why the word “implementing” was changed to “have”. Ms. Drzal explained that if they have a nutrient management plan, it is understood that they are implementing it. Mr. Newton expressed concerns about not being able to get a nutrient management plan written in time when a producer makes a quick decision to participate in the SL-1. Ms. Dalton explained that there are not enough planners (private or DCR) to get the plans written in a timely manner. Ms. Eiserman clarified that the plan is just needed before payment. Mr. Tate questioned whether it was necessary to include nutrient management plan-writing as an eligible cost in the SL-1 because it is a separate stand-alone practice. A final vote was called with 37 y, 3 n. The vote is greater than 80% so the revised language will be carried forward.
- 2N and 3N: The proposed language for both the NM-5N and NM-5P were voted on individually by the full TAC and passed unanimously (40 y, 0 n).

Ms. Drzal reiterated that Item #4N had been sent to the Programmatic Subcommittee. However, Mr. Bryan explained that this will likely be handled by revising the Contract Part I for next year so that it is not the District’s responsibility to chase down whether the producer is getting funding from another source for the same practice on the same acreage (e.g., double-dipping). He stated this does not refer to or prohibit “piggy-backing” for structural practices.

Mr. Bryan introduced Bob Waring for the Cover Crop half of the subcommittee report. No items were presented for full TAC votes – only initial consideration. The following items have had formal action by the subcommittee:

- 2C: The subcommittee has voted to table this because it is the same general idea as 7C, and 7C will be further considered.
- 3C: The subcommittee has voted to table this because it is the same general idea as 7C, and 7C will be further considered.
- 6C: The subcommittee has voted to table this because they did not feel that there was enough acreage planted via drilling to justify the change. Ms. Dalton asked if the comment was asking for an additional incentive for no-till acreage. Mr. Waring explained that that was what the subcommittee understood. Ms. Dalton asked if the subcommittee did not feel that there was enough acreage in the Shenandoah Valley to justify the change. Mr. Waring explained that no one at the subcommittee had that concern, and invited the feedback.
- 11C: The subcommittee has voted to table this because the SL-1 currently has three options and some districts are currently able to put it in their secondary considerations to incentivize the longer conversion durations if they feel it is important, and it is nice to still be able to get credit in the model for the shorter term conversions.
- 5C: The subcommittee has voted to remove the requirement for a “pure” stand of rye and instead add a requirement for 2 bushels/acre of rye planted (to meet the Bay program requirements, while also allowing additional species to be mixed in). Mr. Owens stated that further research would need to be done to make sure that this would not negatively impact the

credits. Mr. Glover suggested that DCR work to provide more information to the subcommittee regarding potential implications of this change.

Mr. Waring also stated that the subcommittee has also voted to add another \$5 to the early planting rate for rye (increasing to \$30) and to increase the rye bonus payment by \$2 (to a total of \$10). This is because rye is the “heavy lifter” in terms of credits received and rye seed has become more expensive.

- 9C: Mr. Waring stated that he does not have an update on this at this time.
- 10C: Mr. Waring explained that the subcommittee has voted to add Dura winter rye to the list of cover crop options in the VACS program. This is based on research and a letter of support from Dr. Wade Thomasson of Virginia Tech.
- 12C: The subcommittee has proposed striking the last sentence from the SL-3.C.1. paragraph to avoid contradictory/confusing language and allow piggy-backing.

Mr. Waring mentioned that upcoming subcommittee meetings will be held September 5 at the Orange Office of the Culpeper SWCD and then October 3 at Virginia Farm Bureau. Meetings start at 10am.

Programmatic Subcommittee (Darryl Glover)

Mr. Bryan introduced Mr. Glover at 11:26am for the Programmatic Subcommittee report. Only one item (7P) was presented for full TAC vote; the other items are being presented for the first time.

- 7P: The subcommittee had decided to table 7P regarding establishing statewide average cost lists for BMPs. The subcommittee does not see this as a problem and districts seem to handle this quite well. Further discussion involved questions about requirements for districts to have average cost lists. Mr. Bryan clarified that currently there is no written requirement for districts to have an adopted yearly cost estimate, but it would be a bad idea not to have one. The subcommittee wanted individual districts to be able to have the flexibility to deal with unforeseen circumstances. Further concerns were stated by Mr. Dunn about changing the eligible costs mid-year. The vote was called and the recommendation to table passed at 92.5% (37 y, 3 n). Mr. Wootton commented further that if there was a need to require Districts to adopt a standard cost list, it could possibly be done through grant agreements, because there is no real place in the manual for it.
- 1P:
 - Part 1: The subcommittee is recommending to eliminate individual practice caps, but the participant cap of \$100,000 would still apply. The variance process for animal waste practices would still apply to be able to exceed practice caps.
 - Part 2: The subcommittee is in favor of expanding the variance process to include SL-6W and SL-6N/SL-6W practices.
 - Part 3: The subcommittee is in favor of NOT changing the participant cap this year.
- 6P: The subcommittee has voted to table the idea of having a flat rate per unit installed for practices.
- 8P: The subcommittee has voted to table this item because the manual is already clear on conservation easements and the subcommittee does not see a need to change it. Being in a conservation easement does not affect VACS program eligibility.
- 9P: The subcommittee has voted to table this item because it has already been resolved on page II-29 in the FY2020 manual. Ms. Dellinger asked if the actual erosion & sediment control

measures required by the erosion and sediment control plan are also eligible for cost-share. Mr. Glover stated that this would need to go back to the subcommittee for further discussion.

- 2E: The subcommittee has voted to adopt definitions proposed by the Equine Work Group for “agricultural products” and “agricultural production”. Questions were raised as to why the definition needs to be specific to “equine activities”. Ms. Moore explained that the language is the consistent with the statutory law for the tax credit associated with equine operations. She further explained that the language clarifies that equine activities are eligible; currently some Districts do not allow equine operations to be eligible because some of the receipts associated from equine operations are “services” rather than “products” (and the current definition in the manual is only for products). Ms. Conner expressed concerns about areas like horse riding trails being eligible for cost-share. Ms. Moore stated that that is why there are no new equine-specific BMPs being proposed – practices must still fit in the “mold” of an existing VACS program practice. Mr. Bryan clarified that this language would go in the “Guidelines” section of the manual.

Mr. Glover provided an update on the Equine Manure Research Project. This project has shifted its focus from being a pilot program to focusing on research for practical, realistic end-uses for horse manure. A budget request is currently being worked on in conjunction with Virginia Tech and Virginia Cooperative Extension.

Mr. Glover stated that the next programmatic subcommittee meetings will be held August 26 at the Monacan SWCD office in Goochland, and the following meeting will be October 24 at the Monacan SWCD office or possibly DEQ Innsbrook (TBD). He stated that priority and secondary considerations will be discussed at length on October 24.

Presentation of Additional Items Brought to TAC (David Bryan)

Mr. Bryan explained that these were suggestions received for consideration by the TAC “late”, but there was no clear deadline cut-off date for submissions this year. (A date will be established for next year.) Mr. Bryan stated that the full TAC will vote on whether or not to consider these suggestions this year. He briefly explained the suggestions (which had been sent out previously). Mr. Bryan recommended that the TAC vote to send these on to the respective subcommittees, and then the subcommittee can decide whether or not to address it or table it this year. The vote passed unanimously (40 y, 0 n) to send these on to the subcommittees. Mr. Bryan stated that he would assign each comment a code and send it on to the chair of each subcommittee.

Upcoming Schedule

Mr. Bryan mentioned that the next full TAC meeting is October 8 at the Monacan SWCD office in Goochland. He recommended that each subcommittee address any many items as possible between now and then. The next meeting will be November 20 at the Augusta County Government Center in Verona. He explained that because of the TAC rules, the November meeting is the last time this year that subcommittee chairs will be able to bring items to the full TAC for consideration (discussion) because there will only be one more meeting after that (in December). The December meeting will be held on December 18 at the Monacan SWCD office in Goochland.

Public comment Period

Mr. Bryan opened up the meeting for public comment. There was no public comment.

Adjourn – 12:02pm