

**Chapters 735 and 736 Stakeholder Advisory Group**

**October 24, 2023**

**East Reading Room, Patrick Henry Building**

**STAKEHOLDER ADVISORY GROUP MEMBERS PRESENT**

The Honorable Travis Voyles, Secretary of Natural and Historic Resources, Co-Chair

The Honorable Matthew J. Lohr, Secretary of Agriculture and Forestry, Co-Chair

Matthew Wells, Director, Department of Conservation and Recreation

Tom Dunlap, James River Association

Jay C. Ford, Chesapeake Bay Foundation

Mark Frondorf, Shenandoah Riverkeeper

Dr. Dan Goerlich for Mike Gutter, Virginia Cooperative Extension

The Honorable Emmett Hanger, Senate of Virginia

Adrienne Kotula, Chesapeake Bay Commission

Joe Lerch, VACO

Martha Moore, for Wayne Prior, Virginia Farm Bureau Federation

Jim Riddell, Virginia Cattlemen's Association

James Timberlake, II, Virginia Association of the Commissioners of the Revenue

Dr. Kendall Tyree, Virginia Association of Soil and Water Conservation Districts

**STATE AGENCY STAFF PRESENT**

Andrew Wheeler, Office of the Governor

Stephanie Taillon, Office of the Secretary of Natural and Historic Resources

Andrew Smith, DCR

Darryl Glover, DCR

James Martin, DCR

Christine Watlington Jones, DCR

Darrell Marshall, VDACS

Michael Fletcher, DCR

Virginia "Josie" Roe, Office of the Secretary of Agriculture and Forestry

**CALL TO ORDER AND INTRODUCTIONS**

Secretary Voyles called the meeting to order at 12:01 p.m. and asked for introductions.

Secretary Voyles noted that he was pleased with the discussion at the first meeting and that he hoped it would be a good launching point for working through the deliverables required of the group.

Secretary Voyles reported that he and Secretary Lohr had represented the Commonwealth and the Governor at the Chesapeake Bay Executive Council meeting where they presented Virginia's vision for moving forward to reach the water quality goals for the Bay.

Secretary Lohr commented that Secretary Voyles did an effective job of conveying Virginia's goals.

**DISCUSSION REGARDING PRELIMINARY REPORT DUE DECEMBER 1, 2023**

Director Wells noted that this meeting should be fairly conversational. While presentations were scheduled, the hope was to solicit feedback from the group concerning several issues.

Director Wells noted that the preliminary report from the group is due on December 1, 2023. A progress report is due in July. He advised that the intent of the discussion was to solicit the group's expectations for the upcoming report.

DCR staff recommended that the report focus on the group meetings that had occurred, 2022 progress to date for the top five best management practices, and the future work of the group. .

Members suggested a focus on stream exclusion and nutrient management practices and noted that the report should explain the focus on certain practices.

Mr. Martin noted that there are roughly sixty practices in the Virginia Agricultural Cost-Share (VACS) Program but that many of these can be included into larger categories of best management practices (i.e. cover crops or nutrient management practices).

A member suggested that reporting the practices by the five major watersheds might make the report easier to comprehend. This could be especially important in the upcoming year because of the upcoming elections for the General Assembly members.

A member commented that he hoped this group would be a driver of the necessary discussions related to meeting the water quality goals for the Bay. He suggested that the report should be fairly direct in framing the progress that has been made and in recognizing the things that have been accomplished. He also expressed support for the commitment to voluntary programs as well as seeking affordable ways to accomplish the goals.

Director Wells summarized the comments as follows:

- Milestones and progress to date should be included
- Gaps and challenges should be addressed
- The group wants to focus on the top five practices to include nutrient management and stream exclusion. This includes noting why those are priority practices.
- The preference is to present the data by watershed
- The hope is to keep the programs used to meet the goals voluntary and to possibly utilize technology and innovation to assist with meeting goals.

Director Wells noted that there is no current timeline for the development of the report but the group members would be kept informed.

### **REVIEW OF AGRICULTURAL NEEDS ASSESSMENT WORKSHEET**

Mr. Martin reviewed the Agricultural Needs Assessment worksheet. He provided an overview of the steps taken to determine the funding needs. A copy of the worksheet is available from DCR.

Mr. Martin commented that the first step in the process is to review the most recent progress report approved by the U.S. Environmental Protection Agency (EPA). The progress reports are the implemented and installed practices that Virginia has reported to EPA and that EPA has accepted. These accepted BMPs are the ones Virginia receives credit for in the Bay Model.

For this year's needs assessment, 2022 was the most recent progress report. The progress report is based on the state's fiscal year. Data is reported to EPA on December 1<sup>st</sup> and EPA releases the accepted practice reports in the spring.

Staff is in the process of gathering the 2023 information now. Results will be available in the spring of 2024.

For this year's need assessment, staff looked practice by practice at what had been implemented in 2022 and compared those implementation rates to what was called for in the Phase 3 WIP. The differences show how many practices remain to be implemented.

From there, the estimated costs for the remaining practices to be implemented and the total cost to achieve the reductions is determined. For most of the practices, data was used from the VACS Program to determine the practice costs; the last three years of data are used to derive the average cost.

A few practices are considered outliers, including cover crops, conservation tillage, and animal waste management systems. These practices utilize different cost estimate systems including cost-share payment rates or the cost estimates developed by the CAST Virginia tool.

Ultimately, the estimated costs are spread over the biennium remaining through the 2032. This provides the estimated funding need for the Chesapeake Bay for future years. For the areas outside of the Chesapeake Bay watershed, assumptions were made regarding the funding need based on current funding formulas.

This year's assessment assumed full WIP implementation of all practices by 2027. A projected \$286 million is needed for fiscal year 2025-2026.

Secretary Lohr asked if the assessment would be revised based on funding from the Farm Bill.

Mr. Martin noted that historically the federal funding estimated need has not met the needs assessment. He noted that the federal fiscal year is different, which does create a reporting inconsistency and noted that the federal gap for 2023 is \$92 million.

Secretary Lohr noted that more federal funding was not intended to decrease the state commitment.

Mr. Martin noted that the summary spreadsheet is included in the Impaired Waters Clean-up Plan Report required pursuant to §62.1-44.118 of the Code of Virginia.

A member asked about innovation opportunities.

Mr. Martin noted satellite imagery may be able to be used to document and verify cover crops. This imagery could be utilized to report those acres that are voluntarily being planted with cover crops, without any federal or state financial incentives. The satellite imagery would need to be viewed in the winter and then later to determine if the cover crop was established. The technology could also be utilized to provide additional incentives to producers if a certain amount of cover crop residue remained on the field.

Secretary Voyles asked Mr. Martin to speak to the reaction to these ideas from the federal partners..

Mr. Martin noted that there was general support for the concept; however, EPA did raise funding concerns.

A member asked how the technology would be used to differentiate between pasture and crop land.

Mr. Martin advised that the images would be viewed over time.

#### **DISCUSSION OF DATA PRESENTED AT PREVIOUS MEETING**

Director Wells noted that, in addition to the data presented at the September meeting, more data will be available in July and in subsequent years. He asked the group to offer suggestions for additional data that might be needed.

A member commented that the data should include voluntary practices where DCR is partnering with NRCS. That includes verification of previously installed federal practices; some of which may still be functional.

Mr. Martin noted that finding practices operated by a producer that has not participated in cost share has not be fully addressed. A survey of producers to determine voluntary practices did not provide the results that were hoped for. While the state could contract with a consultant or other entities to locate these practices, permission from the producer would be needed in order to access the property.

Director Wells noted that with the data gap there are some practices that are not in the system.

A member noted that many producers do not wish to have their identity disclosed.

#### **DISCUSSION OF PROPOSED UPDATES TO THE DEPARTMENT'S 2024-2025 MILESTONES**

Mr. Glover noted that it is time for DCR to submit revisions to the 2024-2025 guidelines for submission to the EPA. He noted that the deadline has been adjusted.

Mr. Glover reviewed the following numeric milestones.

Virginia's Draft Chesapeake Bay 2024-2025 Numeric Milestones

Lead Agency & Supporting Agencies	Best Management Practice (BMP) Description	Numeric Milestone* (include unit of measurement)	Associated Programmatic Milestones and/or WIP Initiatives	Contact Information	Notes
Department of Conservation and Recreation (DCR)	Cover Crops	<del>225,000</del> - <u>384,396</u> acres	WIP 20		<u>304,205 acres (2022 official progress)</u>
DCR	Animal Waste Storage	300 cumulative new facilities	WIP 26, WIP 28		<u>Leave as is</u>
DCR, Virginia Department of Agriculture and Consumer Services (VDACS)	Nutrient Management - Urban	110,000 acres under management by Certified Fertilizer Applicators.  600 acres active in Healthy Virginia Lawns Program	D1, D3  These, along with several other programs, will contribute to achieving goals for urban nutrient management implementation.		<u>90,264 acres (2022 official progress)</u>  <u>Certain data related to certified fertilizer applicators is reported to VDACS.</u>
DCR	Nutrient Management Core Plans	<del>700,000</del> - <u>800,000</u> acres	WIP 26		<u>646,616 acres (2022 official progress)</u>

DCR	<u>Enhanced (precision) nutrient management (includes placement, rate, or timing for nitrogen)</u>	<del>110,000 acres</del> <u>550,000 acres</u>	WIP 26		<u>Recommendation to combine milestones for enhanced (precision) nutrient management</u>  <u>436,775 acres (2022 official progress)</u>
<del>DCR</del>	<del>Precision Timing Nitrogen</del>	<del>55,000 acres</del>	<del>WIP 26</del>		<u>Recommendation to combine milestones for enhanced (precision) nutrient management</u>

DCR	Soil Conservation and Water Quality Plans	<del>300,000</del> <u>650,000</u> cumulative acres <u>by 2025 including federal acres</u>	A12 WIP 20, 23, 32  Soil Conservation and Water Quality Plans include VACS acres for all structural BMPs in lifespan, annual state tax credit cover crop acres, plus SWCD approved RMP acres, all EQIP, CRP, CREP, ACEP acres, plus Bay Act Agricultural Plans		<u>7,246 acres (2022 official progress)</u>  <u>Reaching this milestone is dependent on federal plans being included in reporting</u>
DCR	Poultry Litter Transport	<del>45,000</del> <u>65,000</u> tons transported during <u>2022 2025</u>	A19, WIP 29		<u>38,257 tons (2022 official progress)</u>

DCR	Shoreline Stabilization	Report on <del>57,000</del> <u>50,000</u> additional linear feet of tidal shoreline stabilized and/or verified by DCR Shoreline Erosion Advisory Service <u>per year</u> .	D20		<p><u>Cumulative linear feet of tidal shoreline verified is 375,676 linear feet.</u></p> <p><u>18,989 linear feet – 2023 preliminary data</u></p> <p><u>Department is experiencing increasing difficulties verifying shoreline without consistent access to a boat. Department has recently contracted with partners for boat services to assist with conducting verifications.</u></p>
DCR, Virginia Department of Forestry (VDOF)	Livestock Stream Exclusion	2,400 newly excluded buffer acres per year which includes 500 acres of forested buffers per year	A16, A17, A33 WIP 27		<u>1,850 newly excluded buffer acres (2022 official progress)</u>

Mr. Glover reviewed the Programmatic milestones.

**Virginia’s Draft Chesapeake Bay 2024-2025 Programmatic Milestones**  
**AGRICULTURE - KEY ONGOING ACTIVITIES**

Phase III WIP Initiative or Page Number	2022-2023 Milestone Number (if applicable)	Lead Agency/ Supporting Agencies	Actions & Deliverables	Target Dates	General Comments	Funding/ Grant Details	Notes
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A2	p. 43	Department of Conservation and Recreation (DCR)	Require private sector Virginia certified nutrient management planners who participate in Direct Pay to conduct Nutrient Management Plan verification.	Ongoing	Private Direct Pay Planners enrolled in NMP Direct Pay are required to do NMP verification in year two and three of plan life.	State and federal funds	
<del>A3</del>	<del>WIP Initiative 16</del>	<del>DCR</del>	<del>Conduct annual Agricultural Needs Assessment and report funding needs to Governor and Virginia General Assembly.</del>	<del>Nov. 1, 2022, Nov. 1, 2023</del>	<del>Updated annually</del>	<del>State funds</del>	<del>This is standard operating procedure and is required by the Code of Virginia (§10.1-2128.1)</del>
A4	WIP Initiative 13	DCR	Conduct <del>both cover crop and</del> conservation tillage surveys in	<del>Jun. 30, 2022, Jun. 30, 2025</del>	<del>Both surveys were completed by</del> Completed spring 2022. <del>Will</del> The conservation tillage	State funds	Virginia utilizes a watershedwide survey to report conservation tillage results; however, cover crop data is reported on a practice basis.

A member asked about the process for moving forward with the milestones.

Mr. Glover advised that DEQ will be soliciting public comment.

The milestones are due to EPA on January 15, 2024.

Mr. Martin noted that this is the last set of two-year milestones leading up to the Bay Program’s deadline of 2025. The milestones are able to be amended as needed over the two year timeframe.

**PUBLIC COMMENT**

There was no public comment.

Director Wells advised that DCR will be following up with information about the preliminary report as well as the materials presented at the meeting.



There was no further business and the meeting adjourned at 1:32 p.m.