

**Virginia Stormwater Management Program
Regulator Advisory Panel
Subcommittee on Local Programs
January 5, 2011**

Members Present

Steve Herzog, Chairman
Judy Cronauer, Fairfax
Keith White, Henrico
Joe Wilder, Frederick
Larry Land, VACO
Alyson Sappington, Thomas Jefferson SWCD
Barbara Brumbaugh, Chesapeake

DCR Staff Present

David Johnson
Doug Fritz
Jack Frye
Lee Hill
David Dowling
Christine Watlington
Michael Fletcher
Elizabeth Andrews, Office of the Attorney General

Others Present

David Nunnally, Caroline County

Meeting

Mr. Herzog called the meeting to order. He suggested that the committee work through the draft language beginning at 4VAC 50-60-10 Definitions. He said that first the committee should look at big picture comments and that staff should be asked to craft the actual language.

A copy of the document discussed is available at the following address:

<http://www.dcr.virginia.gov/lr2d.shtml>

Mr. Herzog asked for comments on the first page, lines 1-46.

Mr. Herzog suggested that on line 10 the language indicate that to approve the program the Board must find that the requirements of the local program are at least as stringent as the VSMP General Permit.

Mr. Fritz said that the Department is aware that the permit changes cannot be made at the last minute. He said that the permit would have to be updated as much as a year in advance in order to allow localities to change their ordinances.

Mr. Herzog noted that on line 16 the language read as though the SWPPP is a regulated document. He suggested removing the qualifier.

Mr. Herzog said that on lines 44-48, it seemed that item c should be included with items a and b.

Mr. Fritz said that item c was actually incorrect. He said that it is not the activity in c that is 1 acre or greater, it is the common plan of development or sale is greater. He said that it referred to the areas designated by the jurisdictions.

Mr. Herzog said that perhaps that could be clarified in the definitions.

On line 155 Mr. Herzog said that another qualifier should be added after “other materials.”

Mr. Fritz said the language was directly from the federal guidelines.

Mr. Wilder said that line 196 seemed to indicate that if subdivision lots had to wait until construction was completed the permit could not be tied to individual lots.

Mr. Dowling said that the intent was to have it recorded in local land records based on a schedule established by the locality, but no later than prior to the permit termination.

Mr. White questioned the wording. He asked why it was necessary to submit the plan for review and approval prior to approving the plan when it did not have to be recorded for five years.

Mr. Fritz said that the termination is really the notice of termination, not the actual expiration and reissuance.

Ms. Andrews said that the intent was to get away from the maintenance agreement.

Mr. White said that a locality could follow this and still have a maintenance agreement that is not enforceable.

Mr. Herzog suggested on line 181 that the word “permanent” be added.

It was noted that line 194 used the term “control devices” and that “facilities” was used elsewhere.

On line 295 Mr. Herzog noted that it read that the local stormwater management shall review stormwater management plans. He said that if the locality was getting the registration statement, he was not sure what to do with it. He said that Part II tells the owner to give it to the locality. But, he asked what the locality did with it.

On lines 401-402 it was noted that there should be another certification option than the professional engineer.

The need for the table on page 11 was questioned.

Mr. Dowling said that the Department was required to set the table. He noted that the civil penalty is usually done through the court system and that the agency cannot tell the court what penalty to issue.

On line 497 it was noted that the list of items required should be consistent with Part II.

Mr. White said that it would be helpful to line up the reporting period with the MS4 reporting.

Mr. Fritz said that he was working to line up the MS4 permits with the fiscal year.

At this time the committee recessed for lunch.

Following lunch Mr. Herzog noted that the “big ticket” issues were:

- 1) are localities permit issuing authorities
- 2) are local approval decisions overwritten, over-filed or denied. What if local authorities approve something with which DCR does not agree.
- 3) TMDL
- 4) changes in the VSMP permit and local programs. How is the transition handled.
- 5) civil penalties and fines
- 6) reapplication, what is done with registration statements
- 7) definition of project site and area
- 8) who makes sure the permit stays in place

Regarding registration statements Mr. Herzog said that as he understood it, the locality will obtain the registration statements.

Mr. Hill said that his understanding had been that the localities did not want to do the registration statement. He said that the intent was to do much of this online.

Mr. White said that there had been discussion that the applicant could not access the enterprise site from their home or business.

Mr. Hill said that needed to be determined.

Mr. White said that much of the discussion came back to who was the permit-issuing authority.

Mr. Dowling said that some of the items may need to be addressed through the legislature.

Mr. Fritz said that the question was if the qualifying local program was doing the work of the Clean Water Act.

Ms. Watlington asked how long it would take to revise a local ordinance.

Mr. Herzog said that if it was not a zoning ordinance the process would typically take four months. But he said that he would prefer six months from the time the locality actually had the model ordinance.

Mr. Dowling said that it was important to note that this was an evolutionary process. He said that anything done at this point was an improvement on the current process. He said that the concept of one stop shopping puts the program more in the hands of the local program. However he noted that DCR cannot relinquish the overfiling authority as well as that of the EPA.

Mr. Herzog said that the subcommittee would not need to meet again prior to the full RAP meeting. He said that staff would take comments from this meeting and generate amended language as appropriate.

The meeting was adjourned.