

**Virginia Stormwater Management Program (VSMP)
Regulatory Advisory Panel Subcommittee Meetings
October 20, 2010
Richmond, Virginia**

The minutes include an overview of the discussions and actions that occurred within the Stormwater Regulatory Panel Subcommittees that met on this date (Water Quantity, Grandfathering and Water Quality subcommittees).

There was a joint meeting of the water quality and water quantity subcommittees.

Joint Meeting of Water Quality and Water Quantity Subcommittees

Attendees

Mike Rolband-Chair

Norm Goulet, Chair

Assad Ayoubi

Steve Herzog

Daniel Proctor

Ingrid Stenbjorn

Rick Parrish

Jerry McGranner

Aislinn Creel

Keith White

Judy Cronauer

Andrew Gould

Roy Mills

Bill Street

Brent Fults

Jennifer Johnson

Brian Wagner

Joe Wilder

Steve Kindy

Doug Beisch

Mike Toalson

Ryan Dunn

David Anderson

Kurt Stephenson

DCR Staff Present: Scott Crafton, David Dowling, Mike Foreman, Doug Fritz, Lee Hill,
and Christine Watlington

Observers:

Bethany Bezak
Jennifer Brophy-Price
Frank Graziano
Peggy Sanner

Mike Rolband called the meeting to order. The subcommittee discussed the following key items.

1) VRRM – Should it include a forest load? (and add BMP treatment) – YES is decision

2) Should VRRM match EPA Model Loading Rates? – PUNT – no decision made

3) Land use assumptions to calculate “base” quality load selected was:

7.5%, 62.5% forest, 30% turf w/average soils
Includes forest SSURGO

4) How to deal with growth

Delay for linkage on #2

5) Trading Idea

a) Set on-site at the Quantity’s requirements resulting Quality

b) Balance On-site
 Trading
 Local Program
 State Fee

1) Calculation methodology forest land included in VRM.

Comfortable with 10% “C” cover ... QC

70% forest cover in VA. There is a load from forests.
MR – calculate every load o both sides of the equation.

Methodology reflects reality...
Forest Load “zero” – negative #
Implicit credit – zero

Semantics question?
Natural: Controllable?

Proposal: Forest load back in-Approved by Consensus

- 2) Should URM match EPA model loading rates?
Significant load difference in
The models
Calibrated differently
Not relevant locally – CB model but will change

Wording in Regs for flexibility
Translation – policy

EPA new loading(s)? DCR will find out in February, 2011.

- 3) LU Assumptions to calculate “base” quality load
10% ?
Some @ 7.5% - mean value
No perfect way – group must be comfortable
Proposal: 7.5%
62.5% forest
30.0% turf

Approved by Consensus

- 4) Growth?
Accommodated by Trading program
TMDL compliance
Developing linkage
Federal equivalency – implementation *policy different
#2 & #4 ⇔ related issues
Subcommittee to work with DCR – sign up sheet
Different river basins w/different loads ⇔ growth

Review #3: Land use assumptions
DCR will review land use cover for a healthy waters perspective...

Recommendation for RAP: 7.5%, 62.5%, 30%
[.36]

- 5) Trading Idea
Trade between 0.45 & 0.28
Now perhaps 0.36...

Can we trade to get there?
Quantity control provides some quality control

Numerous options.

Total P – Keystone pollutant but an indicator...

Need to meet Bay requirements and local TMDLs

MEP before trading

Trading across jurisdictional boundaries...

Statute allows trading across HUC or adjacent ones

Accounting process not fully determined

Concept Proposal: Onsite for quantity requirements which meet some quality

Balance	Onsite
	Trading
	Local Program
	State fee

Quantity Subcommittee

Is the forest load too tough?

- forest

- meadow

7.5%, 30% turf, 62/5% forest

↑ Converted to curve #

5% } out of turf %

10% }

Consistent with quality subcommittee

Steve/Keith to propose language on extent of analysis for 10 yr 24 hr storm...

[7.5%]/30%/62.5%
 CWP 0.355

→ All Va (SSURGO) 0.362
 7.5%, 12.5%, 80% 0.291

Bay Shed (SSURGO) 0.365

[10%]/27.5%/62.5/5
 7.5%, 22.5, 70 – 0.332
 CWP 0.397

→ All VA (SSURGO) 0.404
 0.292 – no turf

Bay Only (SSURGO) 0.407
 7.5%, 11.25%, 83.25
 10 20 70 → 0.374

Replace Forest with:
~~Predevelopment~~ & Conditions

	Choices				
		A	B	C	D
(4)					
1) Forest	1	30	55	70	77
	2	30	58	71	78
2) Meadow	4	38	60	73	80
	5	36	59	73	79
3) 16% I	6	39	61	74	80

Consist wi/Quality (4) 7.5%, 30% lawn, 62.5% forest
 w/state soils

5) 5% ————— 32.5% ————— 62.5%

6) 10% ————— 27.5% ————— 62.5%

Reduction factor (.9) vs (.8)
 10% (< 1 ac) 20% (> 1 ac)

Or .90 *

PEAK DISCHARGE
(CFS)

	A	B	C	D
→ 1	-	1.0	30.3	61.0
2	-	1.6	32.4	64.6
→ 4	-	2.0	37.8	70.2
5	-	1.8	36.4	68.5
6	-	2.2	39.3	72

100 AC site
Forest option = based on trading discussion

After the joint subcommittee meeting, both the water quantity and grandfathering subcommittees met.

Water Quantity Subcommittee

Attendees

Mike Rolband-Chair
Steve Herzog
Daniel Proctor
Ingrid Stenbjorn
Rick Parrish
Jerry McGranner
Aislinn Creel
Keith White
Judy Cronauer
DCR Staff present: Lee Hill and Mike Foreman

- Discussion began on the various SWM peak flow rate criteria that should be adopted as the “floor” value. Six different criteria were proposed for discussion:
 1. **Forest**
 2. Meadow
 3. 16% I.C.
 4. **7.5% I.C. - 30% lawn - 62.5% forest**
 5. 5% I.C. - 32.5% lawn - 62.5% forest

6. 10% I.C. - 52.5% lawn - 62.5% forest
- CN's were computed for the options and #'s 2, 3, 5, and 6 were eliminated – resulting CN's were not appreciably different (using state soils).
 - Arguments for using Forest - more technically defensible. Argument for #4 - it would match the water quality criteria.
 - Peak flow rates were computed using TR-55 Graphical Method for all proposed options for HSG's B, C, and D for a hypothetical 100 ac site to assist in making a decision on the “floor” value to use.
 - A vote was taken between #'s 1 and 4 – tied vote. Decision was to present both:
 - If trading is adopted, use #1. If not, use #4.
 - Option #1 would provide some measure of quality control in the event the adoption of a trading program allows offsite treatment.
 - It was noted that there was not a big difference in the peak flow rates for the hypothetical site between the 2 proposed options.
 - A discussion on the Reduction Factor to use was held, 0.9 or 0.8. Decision was to propose 0.8 for sites ≤ 1 ac and 0.9 for sites > 1 ac.
 - Next discussion topic was the extent of analysis – to the 1% or 100 yr FPL (FEMA or local). DCR (Lee) stated they could not support just stopping at the 100- floodplain since flooding from the 10-yr, 24 hr storm is in the current language – Lee stated this needs to be addressed.
 - Steve and Keith were tasked to come up with language on the extent of analysis for the 10-yr, 24 hr storm.
 - The 9/17 email from Ingrid concerning localized flooding was discussed. Adding “increased” flooding or property damage was deemed sufficient to address the concern.
 - Steve raised a question regarding redevelopment – if a site is redeveloped multiple times, do the requirements keep getting applied? The decision was to consider this situation further.
 - The meeting adjourned – no new date for the next meeting was set.

Grandfathering Subcommittee

Attendees

Mike Toalson, Chair

Asaad Ayoubi

Roy Mills

Bob Kerr

Bethany Bezak

Philip Abraham

Peggy Sanner

Doug Beisch

David Anderson

Larry Land

DCR Staff present: David Johnson, David Dowling, Mike Fletcher, and Elizabeth Andrews (Office of the Attorney General)

Mr. Dowling distributed draft copies of the language. Copies are available from DCR.

Mr. Dowling said that the issue was to make sure that the language fits legally within the regulatory environment. He said that prior discussions had been policy related, so the need was to focus on the regulatory environment.

Mr. Toalson note that he submitted had met on two prior occasions and had submitted recommendations to the full Regulatory Advisory Panel (RAP). Questions arose regarding linear projects, roads and highways.

Mr. Dowling said that in the document provided lines 43-59 was the language the subcommittee had recommended worked into the suspended stormwater final regulation. He noted that Section A had been stricken.

Mr. Abraham asked on lines 60-64 if VDOT should have grandfathering if there was an interim agreement.

Mr. Mills noted that if there was an interim agreement there would be funds attached.

Ms. Sanner said that she would continue to object to multi-state projects being grandfathered. She said that she would object to interim projects being included for the same reasons.

Mr. Abraham said that the word interim was a misnomer. He said that if a developer was operating under an interim agreement, they had already expended millions in terms of design and planning.

Mr. Kerr said that the difference between interim and comprehensive was the legal side.

Mr. Abraham said it was the stage of the project. Comprehensive is the final agreement that the state has for construction.

Ms. Andrews said that it would be important to take a closer look at the transportation projects.

Mr. Mills said that if there was an interim agreement then VDOT had allocated money.

Mr. Mills noted that regardless, as of June 30, 2019 even if a project was grandfathered, the project will have to convert to the new regulations. The project would fall under the new permit.

Mr. Mills asked about consideration for municipal projects.

Mr. Toalson suggested adding the word "local" under Subsection D.

Mr. Toalson asked members to look at Subsection C.

Mr. Dowling said that the concept in this section was to capture the properties that are part of a common plan of development. For example if a housing community is being developed right now it may be five or six years before an individual lot is developed. General permit coverage is still needed.

Mr. Beisch expressed a concern about the reference to the preliminary site plan. Ms. Sanner agreed.

Mr. Dowling noted that by practice the standards would be locked in until the permit changes in July 1, 2014. He said that the question is what happens in the interim period.

It was noted that there was a need to clarify who would approve a project being grandfathered.

Mr. Toalson said that it would be the locality unless DCR was administering the program.

Mr. Abraham said that it would be helpful to clarify that.

Mr. Dowling said that DCR could not answer who was grandfathered without going to the locality.

Ms. Andrews said that localities are set up to make the vesting determinations.

Mr. Beisch said that the state vesting statute specifically indicates that localities may not grand vesting for Clean Water Act discharge.

Mr. Toalson said that the only thing to be added was that there must be substantial expenditure and due diligence. That was added as a safeguard for the Bay.

It was suggested that the phrase “shall be grandfathered by the program authority” be added to line 46.

Ms. Sanner asked if the term “common plan of development” was defined in the Code.

Mr. Dowling said that the term was defined in the regulations.

Mr. Toalson said that it was not a statutory definition. He said that it was referenced throughout the Code, but not specifically defined.

Mr. Toalson referred to Section D.

Ms. Sanner suggested adding to D the requirement that it must have the stormwater management standard as included in the above language.

Additional discussions regarding editorial decisions were discussed. These recommendations will be included in draft language that is circulated back to the full RAP prior to the November 30, 2010 meeting.

Mr. Dowling said that he would take the subcommittee recommendations and revise the draft and distribute it for member comments. A copy of that draft is available from DCR.

Mr. Toalson said that based on that document and discussion with the RAP, the need for an additional meeting would be determined at a later date.

The meeting was adjourned.