

**Stormwater Local Government Advisory Committee
Thursday, August 9, 2012
12S Conference Room, Main Street Center
Richmond Virginia**

SLGAC Members Present

Ginny Snead, DCR
Joe Lerch, VML
Alyson Sappington, Thomas Jefferson SWCD
William Johnston, City of Virginia Beach
Barbara Brumbaugh, City of Chesapeake
Keith White, Henrico County
Dan Rublee, City of Harrisonburg
Cabell Vest, Aqualaw/VAMSA
Sam Johnson, Northern Neck SWCD
Steve Hubble, City of Lynchburg
Brian Stokes, Campbell County
Todd Flippin, Augusta County
Bruce McGranahan, Fairfax County
Debbie Byrd, Goochland County

DCR Staff Present

Robert Bennett
Joan Salvati
Shawn Smith
Scott Crafton
Michael Fletcher
Gerry Seeley
Matthew Gooch, Office of the Attorney General

Others Present

Joseph H. Maroon, Maroon Consulting
Richard Jacobs, Culpeper Soil and Water Conservation District
Jenny Johnson, Joyce Engineering

Ms. Snead called the meeting to order. She thanked members for attending and for their interest.

Update on DCR Relevant Activities and Regulatory Actions

MS4 Update

Ms. Snead said there were multiple ongoing efforts within the agency, including:

- Phase I Individual Permits Reissuance
 - 11 Administratively Continued Permits
 - Arlington County Draft Permit Submitted
 - Bay TMDL Compliance
 - Other TMDL Compliance
 - Impaired Waters
- Phase II GP Reissuance
 - Regulatory Advisory Panel
 - 4 RAP Meetings, June, July, August
 - Three Meetings Held
 - <http://www.dcr.virginia.gov/lr3.shtml>
 - Two Additional Meetings
 - August 22
 - September 6
 - Proposed Regs to Board September 2012
 - Effective July 2013
- MS4 GP Primary Issues
 - Measurable Goals
 - WQBELs versus Narrative BMPs
 - Chesapeake Bay TMDL
 - Credit for practices not in the Bay Model
 - Impaired waters with no TMDL
 - Measuring Adequate Progress
- Construction GP Reissuance
 - Accelerated Timeframe – Model Ordinance
 - RAP Meetings August, September, October
 - Proposed Regs to Board December 2012 to have Effective July 2014
 - Primary Issues
 - Define Common Plan of Development
 - Specificity of ELGs
 - Address TMDL WLA
 - Cross Jurisdictional Issues
 - Simplification
- Nutrient Trading Expansion
 - 2012 Legislation
 - Regulator Action
 - VSWCB June Authorized DCR for NOIRA

- NOIRA DPB July 2012
- Public Comment Period likely September
- RAP Fall 2012
- @ 2 Year Process

- Legislative and Regulatory Update
 - Integration Bill Exempt Actions
 - Proposed Regs to Board September 2012
 - VSMP
 - ESC
 - ESC Certification
 - Bay Act
 - Final Regs to Board December 2012

- General Update
 - RFP Local Stormwater Program Development
 - Pre Bid Conference Webinar: August 17, 10 am

Ms. Snead said that she would send out the detail information regarding the webinar.

Ms. Snead said that she would appreciate the help of Advisory Committee members in determining that the information regarding the RFP is being forwarded to the correct person at the local level.

Ms. Snead said that with regard to the local ordinance, DCR would need to see locality progress by April 1, 2013 in order to move that information forward to the Board in June.

- Phase I Regional Meetings: Initial Outreach
 - Held Fairfax, Chesapeake, Verona, Chatham, Culpeper, Front Royal
 - Additional meetings: Chesterfield, Roanoke, Keysville, Hungry Mother State Park
- Phase II Regional Meetings Training: (Fall)
 - Likely 6 Locations Statewide
 - Day-long Meetings

Mr. McCutcheon is putting together the training for the second phase of regional meetings. The plan is for 6, day-long meetings.

Ms. Snead said that the Local Government General Information Survey was sent out that morning. The request was that the responses be submitted by August 24, 2012.

Ms. Salvati said that the survey went out to 143 localities, mostly in line with the Erosion and Sediment Control programs.

Ms. Salvati agreed to send the information to Mr. Lerch to forward to chief officials and legislative liaisons in the localities.

Draft Model Ordinance

Ms. Smith reviewed the draft model ordinance. A copy of that draft and supporting documents for these meetings is available at:

<http://www.dcr.virginia.gov/lrswlgac01.shtml>

Ms. Smith said that a section was added that provides context for integrating stormwater and erosion and sediment control.

1.1 – Title, Purpose and Authority (Section 4VAC50-60-20, 4VAC-60-40)

Ms. Smith said this was essentially the same as the pre-draft.

1-2. Definitions

Ms. Smith said that there were numerous changes in this section. The section was significantly reduced.

This section clarified that “General Permit” now refers to the formal name of the Construction General Permit.

Mr. McGranahan asked if the section regarding the Chesapeake Bay Land Disturbing Activity would change in 2014.

Ms. Snead said no change was anticipated unless the General Assembly decided to act.

1-3. Stormwater Permit Requirement; Exemptions

Ms. Smith said that language was clarified and cleaned up to track more closely with the regulations.

A member asked for clarification in subsection B.

Ms. Snead said that this language was in the Integration Bill. She said that the requirements for the Chesapeake Bay Area will change effective July, 2014.

1-4. Stormwater Management Program Established: Submission and Approval of Plans; Prohibitions

Ms. Smith said that the edits in this section cleaned up redundant language.

Mr. McGranahan said that the issue of adopting references and guidelines could be problematic.

Ms. Salvati said that the intent was to reference the technical criteria.

Mr. McGranahan said that the ordinance had to be consistent with the regulations but that he was concerned with links to specific guidance.

Ms. Salvati suggested that the references could be removed, but the standards included.

Ms. Snead said that DCR would review that language with those considerations.

Mr. White expressed concern about the requirement for the Stormwater Pollution Prevention Plans. He asked if the state would object if a review of that plan was included in the ordinance.

Mr. Gooch said that option would need to be reviewed.

Under subsection B of this section it was noted that there was confusion with the term "permit."

Staff agreed to look at the references and to draft language that clarifies the references to a permit.

1-5. Stormwater Pollution Prevention Plan; Contents of Plans.

Ms. Smith said that this had been simplified to refer to the General Permit requirement.

1-6. Stormwater Management Plan; Contents of Plan.

Ms. Smith said that this section had not changed since the last review.

A member noted that the reference to karst had been removed from the draft.

Ms. Smith said that was removed because it was not applicable in all areas.

1-7. Pollution Prevention Plan; Contents of Plan.

Ms. Smith said that this was essentially the same as the pre-draft. This section cites the stormwater management regulations.

1-8. Review of Stormwater Management Plan.

Ms. Smith said that the title of this section was changed to remove the word “local.” She said the remainder of the section is consistent with the regulations.

Mr. White asked if the time frames were consistent with the Erosion and Sediment Control Law.

Ms. Smith said that the intent was to try to streamline the process.

1-9. Technical Criteria for Regulated Land Disturbing Activities.

Ms. Smith said that this section deleted the specifics of the criteria and replaced that with a reference to the regulations. She noted that the section was substantially reduced.

1-10. Long-Term Maintenance of Permanent Stormwater Facilities.

Mr. White suggested that the maintenance agreement should be recorded, not just submitted.

1-11. Monitoring and Inspections.

A member asked about specific time frames for inspections.

1-12. Hearings

Ms. Smith said that this section was optional and did not have to be included in the ordinance.

1-13. Appeals [Optional]

This section is also optional in the ordinance.

1-14. Enforcement.

This section was edited to track more closely with the regulations.

Ms. Sappington expressed concern with the term “knowingly violates” in section F. She said that meant that staff could potentially be charged with a felony. She said she would like to have assurance that this could not implicate local staff.

Mr. Gooch said that the language was verbatim from the regulations, but that would be a question for the county attorney. He said that localities could request a formal opinion from the Attorney General.

1-5. Fees

Ms. Smith said that the change in this section was to note that fees are optional. However she noted that the Soil and Water Conservation Board must approve any changes in fees on a case by case basis.

Ms. Snead said that localities would need to demonstrate that they can still cover the cost of the program.

1-16. Performance Bond.

This section is also optional.

A member asked if a comment had been submitted that had not been address how they should follow up.

Mr. Smith said that any oversight was not intentional and asked that the member resubmit the comment.

Subcommittee Reports

Roles and Responsibilities Guidance Subcommittee

Mr. Hubble said that the Roles and Responsibilities Guidance subcommittee had been working electronically since the last meeting. The subcommittee took the local program check list and identified key action items. The subcommittee created a matrix to look at each check list item. This will be shared with the group as a whole prior to the September meeting.

Program Adoption Timeline and Typical Development Process Guidelines

Ms. Salvati said that the subcommittee had previously distributed a timeline. The subcommittee has met twice by conference call to update the timeline. That will be sent to members electronically for feedback.

Ms. Salvati said that at regional meetings there had been a lot of questions regarding the timeline and what must actually be submitted. She said that the subcommittee was going to develop at local stormwater program development FAQ sheet.

ePermitting Development Subcommittee

Mr. Seeley said that the subcommittee had met one additional time since the last SLGAC meeting. He said that the subcommittee was working to keep the process simple. He said that members of the subcommittee would meet that afternoon to review a live demonstration of the application.

The next meeting of the SLGAC will be Thursday, September 13 at 10:00 a.m. in the auditorium of the Pocahontas Building on Main Street.

The meeting was adjourned.