

**Virginia Department of Conservation and Recreation
Public Meeting on 4 VAC 50-60-10 et seq.
Virginia Stormwater Management Program (VSMP) Permit Regulations**

**February 17, 2006, 1:00 p.m.
Richmond Regional Planning District Commission Conference Room
2104 West Laburnum Avenue, Suite 101
Richmond, Virginia 23227**

Meeting Officer: Christine Watlington
Policy, Planning and Budget Analyst
Department of Conservation and Recreation

Ms. Watlington: Good afternoon, I would like to call this meeting to order. I am Christine Watlington, the Policy, Planning and Budget Analyst for the Department of Conservation and Recreation. I will be serving as the meeting officer this afternoon. I would like to welcome you to this public meeting where we will be discussing two regulatory actions associated with the Virginia Soil and Water Conservation Board's Virginia Stormwater Management Program (VSMP) Permit Regulations. The two regulatory actions that will be heard at these meetings, in the order they will be addressed are, 1) amendments to determine the minimum criteria for a local stormwater program and to develop procedures for the delegation of the administration of the state stormwater program to localities; and, 2) amendments to the statewide stormwater permit fee schedule.

I would like to thank the Richmond Regional Planning District Commission for allowing us to use this facility.

Additionally, with me this afternoon I have Lee Hill, an Assistant Director in the Department's Soil and Water Conservation Division. Lee has oversight over the Department's erosion and sediment control and stormwater programs and will serve as our technical presenter today.

Also with me is Michael Fletcher, DCR Director of Development. Michael will be audio taping our meeting and developing a set of minutes of the comments received today.

I hope that all of you have registered on our attendance list. If not, please do so. Those wishing to speak to either of the regulatory actions should note that on the attendance list. Please also make sure that your contact information is legible and complete, as we will be utilizing it to keep you informed on the status of these regulatory actions.

The purpose of this meeting is to receive input from interested citizens on the DCR Notices of Intended Regulatory Action on the Board's Virginia Stormwater Management Program Permit Regulations.

The first NOIRA primarily considers the development and adoption of revised regulations to establish minimal criteria of a local stormwater management program and Board approval procedures for the delegation of the stormwater management program for

construction activities, or parts thereof, to localities. The substance, format, and procedures of these regulations will ultimately depend upon approval from the U.S. Environmental Protection Agency, which has national oversight of all Clean Water Act programs.

The second NOIRA primarily considers the development and adoption of regulations that establish or revise the statewide stormwater permit fees at a level sufficient to carry out the stormwater management program.

The Virginia Soil and Water Conservation Board authorized and directed the Department's filing of these NOIRAs relating to the Board's Virginia Stormwater Management Program Permit Regulations at its May 19, 2005 meeting. The Department is to consider changes and solicit recommendations relating to these Regulations. There are no amended regulations that have been drafted as of this date or that will be considered today as we are still at the stage of hearing from the public.

The Notice of Intended Regulatory Action is a mechanism to inform the public that the agency is considering developing, amending, or repealing the regulations in accordance with the Administrative Process Act. The current public comment period and this public meeting, serve as an opportunity for the public to provide the Board and the Department data, viewpoints, and recommendations regarding their thoughts about whether to, or how to, revise the Virginia Stormwater Management Program Permit Regulations. A copy of both NOIRAs, these regulations, and public comment procedures are available on the back table in the folders.

The Board is also seeking information regarding impacts on small businesses. Information may include: (1) Projected reporting, record keeping and other administrative costs, (2) Probable effect of the regulation on affected small businesses, and (3) Description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

The Department as authorized by the Board will be using a public participatory process to develop the proposed regulations. The Department will be forming a Technical Advisory Committee to consist of relevant stakeholders to assist in the development of proposed regulations for the Board's consideration. Persons interested in participating on the advisory committee should provide their name, address, phone number, e-mail address, and the name of the organization or affected group that they represent in writing to the Regulatory Coordinator for consideration no later than 5:00 pm on February 24, 2006.

Today is only the very beginning of a public process with opportunities for the public to be engaged in the development of the regulatory changes throughout the process. In general, the process involves, upon the close of this public comment period, the development of proposed regulations utilizing a technical advisory committee and discussions with and direction from the Board, a 60-day public comment period and a series of public hearings across the State on the proposed regulations, and the development of final regulations. This process will take approximately another 18 months. We encourage each of you to remain engaged throughout the regulatory process.

This concludes my introductory remarks. I would like to introduce Lee Hill, DCR's Assistant Director of Soil and Water Conservation, who will explain in more detail what we are proposing to do with the two regulatory actions.

Mr. Hill: Thank you Christine.

The Virginia Stormwater Management Permit Program was created by HB1177 in 2004 and this action transferred the responsibility of the permitting programs for MS4s and construction activities from the State Water Control Board and the Department of Environmental Quality to the Virginia Soil and Water Conservation Board and the Department of Conservation and Recreation.

The Act authorizes the Virginia Soil and Water Conservation Board to delegate to the Department or an approved locality the implementation of the Virginia Stormwater Management Program. The Act further requires establishment of stormwater management programs by certain localities and specifies that the Board must amend, modify or delete provisions of the Virginia Stormwater Management Program Permit Regulations to allow localities to implement the Program.

Under the first regulatory action, the existing Virginia Stormwater Management Program Permit Regulation will be amended, modified or changed to allow the Board to delegate the permitting responsibility for construction activities, or portions thereof, to localities with MS4s, to localities covered by the Chesapeake Bay Preservation Act, or to localities requesting to operate or "opt in" to the program. The delegation of the Virginia Stormwater Management Program to localities will further streamline the program by providing for "one stop permitting" for land-disturbing activities regulated under this program.

The regulations will outline minimum criteria that a local stormwater management program must contain to receive program delegation by the Board for administration of the Virginia Stormwater Management Program or portions thereof. It will also contain administrative procedures by which the Board makes its delegation determinations. As mentioned previously, the substance, format, and procedures of these regulations will ultimately depend upon approval from the U.S. Environmental Protection Agency, which has national oversight of all Clean Water Act programs.

The regulations may also remove the out-of-date Best Management Practices (BMP) nutrient removal efficiency information from the current regulations and reflect its addition into the Virginia Stormwater Management Handbook where it shall be more regularly updated for public use.

Currently, the localities are already administering the statewide erosion and sediment control program. The addition of this program at the local level will allow for a more integrated review of project construction plans from both the stormwater and E&S perspectives and thereby improve local water quality and quantity.

The second regulatory action involves amending the fee portion of the regulations. The existing Virginia Stormwater Management Program is currently funded exclusively from

permit fees. The current fee schedule was in existence prior to the consolidation of the state program into DCR. The fees will be revised to cover the costs associated with program implementation. To assist localities in the implementation of a locally delegated program, at least 70% of the collected fees will be shared with the localities to cover program costs.

The collection of sufficient fees to cover program costs along with the allowance for local delegation, which is being addressed through the first regulatory action, should improve program implementation statewide. Improved implementation provides protection and improvement of water quality that will restore and enhance the living resources of Virginia's waters, provide clean water for recreational uses and conservation in general, and contribute to the protection of Virginia's rivers and the Chesapeake Bay. These actions are essential for the protection of the health, safety, and welfare of the citizens of the Commonwealth.

Thank you for the opportunity to explain these regulatory actions.

Ms. Watlington: Thank you Lee.

I hope that the explanation of our intentions regarding these regulatory actions just provided by Mr. Hill will address some of the questions you had when you came here this afternoon and let you know that this is only the beginning of a public process. Before we begin receiving comments, I would like to stress that this is an information-gathering meeting. Everyone wishing to speak will be heard. If necessary, we may ask speakers questions concerning their remarks or to request additional information concerning a subject believed to be important to the process in order to help the clarify and properly capture your comments.

For the purposes of being able to capture the comments in relation to the two separate regulatory actions, I will first take all of the comments associated with the establishment of minimal criteria of a local stormwater management program. Upon completion of all of these comments I will then take comments associated with the establishment or revision of the statewide stormwater permit fees.

We will now begin the public comment portion of the meeting associated with the establishment of minimal criteria of a local stormwater management program. When I call your name, please state your name and whom you represent. If you have an extra copy of your comments, we will be happy to accept it.

The first person I will call is Steve Kayser.

Steve Kayser, Loudoun County

Mr. Kayser: I am Steve Kayser with Loudoun County.

Over the last few meetings we have had on a regional level with Fairfax County, Prince William and others, from my perspective, one of my major concerns is how would this affect counties that have approved alternative inspection programs. Frequencies of

inspections on jobs are different depending on how the environmental assessment rankings turnout. As you know some jobs are high, medium and low, so how are we going to incorporate the stormwater management criteria to apply to those situations?

Loudoun County also issues agreement plans for single-family homes. Most of these are rural type, single-family dwellings that are currently zoned with three acres or less. We do not charge them fees to build these houses, however they are inspected, so we need to figure out how to look at the agreement and the plans as well.

That is mostly where I am coming from as far as incorporation of these concerns into any future stormwater requirements. I am also concerned about the inspection frequencies based on rainfall levels. It is not necessarily uniform to apply it to a 1/2 inch. That needs to be looked at. Is there a realistic way to measure rainfall and apply it to the inspections of stormwater management permits?

William J. Johnston, Virginia Beach

Mr. Johnston: I am Bill Johnston with the City of Virginia Beach.

Ved Malhotra and myself are here with the Planning District Commission as well. We will discuss this with the Hampton Roads Planning District Commission.

The first things that came to mine are obviously, Virginia Beach is a large city and we will definitely have this delegated to us. You're estimating about 18 months to get this process all the way through to approval?

Ms. Watlington: Eighteen months, that would include up to the final regulations.

Mr. Johnston: So how long do you plan on providing the localities to make the necessary changes in order to start?

Ms. Watlington: Actually, for your locality, since you know you are going to implement a stormwater management program, it will be no sooner than 12 months and not more than 18 months after the effective date of the regulations. From now, it is at least 2 1/2 years.

Mr. Hill: One addition to that is that the "effective" date is also based upon EPA approval. If it takes us a year to get the EPA to agree to the program changes you can add a year.

Mr. Johnston: I just wanted to know, once the last shoe falls, how much time we have.

Is it DCR's intent to produce guidance or draft ordinances for cities to be able to do the implementation? Will you provide us with the materials we need to make sure we go about this in a uniform and acceptable manner?

Mr. Hill: Once the regulations have been approved and adopted, in that same process, we will be developing a draft ordinance that contains minimal acceptable program criteria that

the Board will approve. Localities would have to amend their existing ordinance or adopt a new one to meet that minimum standard.

Mr. Johnston: I am starting to see references to this program in the MS4 permit, which is another topic. Do you anticipate if we fail to comply with what DCR wants in this program it will also be a hit in the MS4 program? Is it two for one or do you think we will just have to work on trying to get back into compliance with our E&S program, as long as we are working with the state we don't get a second hit.

Mr. Hill: I think that would be a safe assumption to assume we would try to work with you, so you do not get two hits. We do not want to do that. We want this to be successful. We want the localities to have the program, because that was the intent of the revised Stormwater Management Act. It promotes streamlined one stop shopping where developers and builders can come to the city, come to the town, come to the county and get all their permits and get all their fees paid and move on. So they do not have to deal with forms coming to Richmond.

Mr. Johnston: The one stop shopping line was more about fees than anything else. I think the basic reaction of your private development industry is it is supposed to be one stop shopping, why do I have to pay a separate bill for this and a separate bill for that? I know that if we were to combine our fees that we are currently charging for erosion and sediment control and combine it with the general permit fees, that automatically makes 30% of the combined fees go to the state. It would be helpful if the state made it very clear that these are still separate fees.

Why we do say one stop shopping, it doesn't mean one permit fits all?

Mr. Hill: We will have to make that clear, because that is exactly right. It is a valid question that if you combine them, would they be considered one fee. There may be a way through the NOIRA process that you can identify it as one fee and then have an a, b, c, d as a co-component of that fee. That is something we will need to look at.

Jeff Blackford, Fairfax County

Mr. Blackford: I am Jeff Blackford with the County of Fairfax, Virginia. I am actually here with several other people who may have comments as well.

My comments are focused on trying to provide questions to the Board as it develops the program. Things municipalities and localities will need as they implement a program. We are certainly happy to work with the Board in any capacity as we go through that.

We think the localities will need to better know the expected levels of service during the administration of this program. What service levels does the state require or expect them to have? Obviously, we will need to know what local codes to amend and modify and to understand what provisions to put into our local codes.

We need to better understand what technical details we are required to show on our proposed plans as we integrate these requirements into our construction planning process.

What authority would the locality have to grant variations or modifications to the requirements on those plans?

What are the frequency and details of local inspections that we are expected to make? That would obviously affect our manpower calculation and what are the reporting requirements and mechanisms for those inspections.

What additional training and qualifications might be required for our E&S inspectors if the state feels like we need additional training or certification? What onsite enforcement actions and steps will inspectors have the ability to take in the event there is noncompliance?

What available enforcement, legal actions or court actions are available? Would we pursue the infractions in criminal court or would the state opt to step in? Would the locality have the authority to issue fines as the state now has the ability to issue fines for noncompliance? Will the local authorities have that ability to render fines?

What monitoring and record keeping by the locality would the state expect for the program and its administration?

What requirements will the state utilize to ensure local compliance? How will the law ensure local compliance?

In this area, last but not least, what appeal processes might the locality have if the state deems them noncompliant? Particularly with the penalties going up, what appeals processes might we pursue?

A few comments about the timing. There seems to be presently a lack of clarity in the timing expectations. When the shoe drops, how much time will we have? This will become critical for localities. We will have to go through a public process to adopt codes and ordinances. We will have to perhaps hire and train additional staff to perform additional duties and perhaps create or enhance our information technology center.

Will we have to put in place amendments to our fee collection and fee transfer processes?

It takes as much as 18 months from when the shoe falls. It will be critical for us to know this in advance.

The rest of my comments pertain to funding. We have a lot of questions about fees and will need additional clarification from the state on crafting our program. I appreciate the opportunity to speak.

Mr. Hill: Since the question of timing came up again. Right now if you are an MS4 or if you are in the Chesapeake Bay Preservation Act you have July 1, 2006 in the statute. That is being changed. That is where the 12-18 months comes from. It says "According to a schedule set by the Board". So once we have approval to be able to delegate to localities from EPA, the Board will set a schedule. "But no sooner than twelve months and not more than eighteen months from the effective date of the regulation that establishes local program criteria and delegation procedures."

So lets run through this process. Let us say this process takes us 24 months to get all through the regulations and get it finalized. EPA takes six months to do it. As soon as we find out that EPA approves the program delegation, we can delegate it to you. We are going to be working hand in hand with localities, and will be letting you know this is the date and the schedule established by the Board. You will have 12-18 months after that.

We will try to keep everybody informed because if EPA says no we can not do this, then we have to determine what shape or form we can do it in. That is something we have to work out.

All the other questions you had are very good and hopefully they will be addressed as we develop what is a minimal acceptable program.

Ms. Watlington: I noticed some people came in late. If you would sign in I would greatly appreciate it.

Joseph Battiata, Stormwater 360

Mr. Battiata: My name is Joe Battiata; I am with Stormwater 360. I have written comments I will provide, but I wanted to get a couple of hopefully simple questions answered.

Does the scope of the NOIRA in any way limit what sections in the regulations will be open for amendment?

Ms. Watlington: The way the NOIRA is drafted does to a certain degree limit the scope of this action.

Mr. Battiata: The basis of that question has to do with the bills that have been put before the General Assembly relating to MS19 and so is there going to be an opportunity to address it? There is probably a whole host of things that people would like to address.

Mr. Hill: MS19 is not part of this NOIRA. That is a different set of regulations and they did not open that regulation.

Mr. Battiata: I guess at some point then it would be good to have it specifically identified so people do not come in wanting to address a lot of things that are not part of it.

Mr. Hill: The major issue setout in the NOIRA is what is an acceptable stormwater management program and the delegation procedures for that.

Mr. Battiata: With that then, the law now requires the regulations to address certain technical elements like encouraging the LID.

Mr. Hill: That will be worked into what is an acceptable local program and how we encourage local programs to do that.

Mr. Battiatia: Does the model ordinance become part of the NOIRA process?

Mr. Hill: The model ordinance is part of the NOIRA process. As we move through the TAC to establish what is an acceptable program then we have to also develop what is an acceptable ordinance based on the program. So that would be part of the TAC charge.

Mr. Battiatia: You mentioned EPA's role or EPA's final authority. I do not believe there is a precedent for delegation from state to the local level for this Clean Water Act permit. Do they have any guidelines or criteria or will they be at all involved in the process because if you go through what is going to be a very cumbersome process to have them say no at the end would be bad.

Mr. Hill: As I indicated earlier, we have to contact them soon and start concurrent discussions. What does EPA think about it? Are we going to be able to do this? As we move through with the TAC we are also moving through the EPA approval discussions at the same time. We agree, we can not go through a 24-month process or an 18-month process and have EPA say no. So if we get to a point where they say no, we have to determine what is acceptable.

John Carlock, Hampton Roads Planning District Commission

Mr. Carlock: Is there any expectation in your discussion with EPA that they are inclined to approve? Any reaction?

Mr. Hill: Basically in our discussions with them they have said they will have to evaluate what we propose. They have not said no, have not said yes. They will evaluate what we present to them. Then there will be negotiation.

Michael Collins, Town of Orange

Mr. Collins: Michael Collins, Town of Orange.

We are a small town, in Orange County, our E&S program and stormwater program is administered through the County and the District in terms of technical staff. How might this affect our current program?

Mr. Hill: The law allows cooperative efforts between localities. It allows for management agreements between county and county, town and county. It also allows for cooperative efforts with Planning District Commissions and Soil and Water Conservation Districts. The ordinance will have to address forms of acceptable cooperation.

It should allow for the same cooperation that you now have with the E&S law. For example, if you're in the Bay Act area and you are a little town on the Eastern Shore you may not have the staff to do a stormwater program so you may work in a cooperative effort with the county to do that. That's an acceptable alternative. There are a number of options that could be acceptable as long as the end product is an acceptable program to the Board that meets the minimum requirements.

Mr. Collins: But you have not yet published what you think the minimum requirements will be.

Mr. Hill: We have not published anything on that. That will partially be what the regulatory process determines.

Ms. Watlington: That completes the list of those individuals who signed up to speak to the establishment of minimal criteria of a local stormwater management program. Are there other individuals who would wish to comment or leave written remarks on this action?

I would now like to begin the public comment portion of the meeting associated with the establishment or revision of the statewide stormwater permit fees. As before, when I call your name, please restate your name, and whom you represent. The first person I will call is Steve Kayser.

Steve Kayser, Loudon County

Mr. Kayser: Once again, I'm Steve Kayser with Loudoun County.

I wanted to briefly address an additional thought on the previous issue. Obviously this is going to be a long-term working process. Many of us will have a lot to say about all of this as it evolves over time. It will take a lot of collective local meetings to resolve a lot of these long-term issues.

In regard to fees, that seems to be important to our County Administration. I have already been asked a question as to how this will impact our existing program. How can I estimate long-term enhancements and set up budget estimations a year in advance? I do not have anything to tell them at the present time until we define inspection requirements and more issues of that nature and we have time to set up schedules and work out logistics.

Once again, we get back to timing and incorporation of these events into a local program. This will help us in determining the impact on our local program. I think time will be critical in setting up fee collection systems and schedules. This will take major modifications to programs like we have, and to add management information computer based systems, which control everything that we do. It is not going to be an easy thing to just set up a different type of account. It is going to take a long time to think about it, staff it and then work out the technical logistics to get that incorporated into existing programs as well.

One of the issues I am sure people are going to be concerned about is how long are the fees going to be set for? How can they change? Is the state going to come in and audit our accounting records? Will we have some sort of general accounting of that system separate from erosion and sediment control?

I am going to have to work out some sort of process to work with not only our inspections counters, but with the county auditors office and county attorneys office. There are a lot of players involved that are not in this room right now. This will only expand as the program

gets bigger. I think this will be a long-term working process and there will be a lot of public input outside of what few representatives we have from various jurisdictions today.

Basically what I will do is go back and report to our County Administration and Board of Supervisors and keep them updated because they are going to be very interested in how this process works and probably would demand that some of our staff be incorporated into some of the technical advisory committees so that we are all working together and not be slammed at the end.

As Fairfax had mentioned earlier we want to be prepared when this happens and we do not want to play catch up. We want to be there when it is time to implement a program and not develop one at that point.

Thank you.

William J. Johnston, Virginia Beach

Mr. Johnston: Once again, Bill Johnston, City of Virginia Beach.

I mentioned the fees earlier. One thing that I am glad of is that you are going to be setting the fees because localities are notoriously shortsighted and shoot themselves in the foot setting fees for inspections and review way too low. In that respect, I would say that I am very happy the state is going to establish the fee.

The other thing is to ensure that the state is aware that while the current process basically involves the submittal of the form declaring that they have the SWPPP, a lot more will be expected of localities who will be administering the program. So there will be a larger number of elements imposed upon us.

We will have to inspect. We will have to review and approve the SWPPP programs and of course the administration of the entire process.

As it currently stands, the \$500, the \$300, and the small CBPA area fees are woefully inadequate.

I am volunteering to serve on the TAC to make sure the fees are set at a level that would support the program.

Ms. Watlington: Let me remind you, if you are interested in participating in the TAC(s) for the NOIRAs, please provide your contact information to the regulatory coordinator at DCR or to Lee so that we will know that you are interested. You need to do that by February 24, which is the closing date of the public comment period.

There is information in the packet regarding what you need to do to submit your name for participation.

Mr. Johnston: I recommend that it will be difficult to review these separately, since one kind of intertwines with the other. I would recommend the TACs be combined.

Jeff Blackford, Fairfax County

Mr. Blackford: Yes, Jeff Blackford, Fairfax County.

I share the same opinion with the gentleman from Virginia Beach. It is very difficult to effectively set fees without a close eye on performance levels.

Our comments are meant to help the TACs work through the fee framework. We feel that establishment of the fee framework will be critical for localities in their determination based on their current and projected construction activities, what the proper staffing will be, as well as based on the performance levels you articulate.

Currently, there is a staff of five in our County office. We feel the schedule and the structure of the fees needs to be founded based on the performance expectations for various construction projects. Obviously, the level of inspection effort, may be substantially different for a 100-acre site as for a 20-acre site. The fee schedule needs to be commensurate with that.

Again, we think the state will need to help define the necessary service levels for various projects and size categories and apply those to estimates for prevailing labor rates and other programmatic costs and help us set the fee schedules. You will hear from Fairfax that we will be happy to participate in that effort.

Perhaps consideration should be given to some mechanism in the fee structure to incorporate varying wage scales or local economies into those fees. That could be done by a scaling factor or multiplier. It would be up to the local jurisdiction to demonstrate the need to apply that scale. There are certainly areas in the state that are much more expensive than other areas.

If the locality can issue fines, and I mentioned earlier if we are able to issue those fines, what happens to those fines. There may be some state requirement that those funds go to a state funding program for accountability. We just need to better understand that.

Last but not least, how will the percent of fees that are transferred to the state be determined?

Currently provisions state that no more than 30% of the total revenue would be sent to the state treasury. How will that determination be made? Is it possible that flexibility would be used to compensate local economies in higher cost areas? We would need some guidance and input on how that would be accomplished.

We appreciate the opportunity. Thank you.

Ms. Watlington: Is there anybody else who would like to speak to the permit fees?

Are there any additional comments or questions with regard to either one of the regulatory actions?

Fred Rose, Fairfax County DPWES

Mr. Rose: I am Fred Rose, from Fairfax County.

I have a question on the NOIRA for the program part. There was a reference made to out of date Best Management Practices. I was wondering what criteria were going to be used or what communication would be used to be regarded out of date.

Mr. Hill: Right now, if you look at the regulations that you have in your packet, the BMP information is in the regulations. To be able to get those out of the regulations or change them we would have to open them up and go through an 18-24 month process. By doing this process and taking them out of the regulations and putting them into the handbook, where they are now too, it allows us a better chance of editing and adding to the list than having to modify the regulations.

As we go through this process of changing the regulations, we will be looking at what practices should be added to that list, what practices should come off the list, and how do we modify that list. Those practices that are now in the regulations cannot be changed without going through a regulatory process.

As we move through the TAC we will be looking at whether they are really out of date or what needs to be added. There may be practices that need to be added. That will be used to revise the handbook.

Mr. Rose: I understand. If something is ruled out of date, how will that affect a locality?

Mr. Hill: The localities have the option of still using them. You can make yours stricter and you can have variances. If they are not in our handbook you can always add them. That still allows you to use them. Additionally, if you want to use a certain proprietary product that is not in our handbook the locality has the right to add that to their list.

Ingrid Stenbjørn, Town of Ashland

Ms. Stenbjørn: We have until February 24 to submit comments and questions? How will DCR respond to comments and questions?

Ms. Watlington: Under the APA process, we will prepare a summary of the comments and staff responses, which will be shared back with those that provided comments.

Ms. Stenbjørn: Will I then be able to have access to everybody's comments? There will be a document responding to what was said here today and what you get through other means?

Ms. Watlington: Yes ma'am.

Mike Blake, Spotsylvania County

Mr. Blake: I am Mike Blake, Spotsylvania County.

I had a question to follow up on the BMPs. Is it the intention of DCR to continue to give removal efficiencies for the BMPs and where is that data coming from? I know that when we met with our watershed manager for tributary strategies, in the outlines of what we would be required to do, dry ponds were no longer really given credit because the efficiency removals had been changed based on the data. Is that still the intention of DCR?

Mr. Hill: The intent of DCR is to always be able to provide guidance. There may be the need to create another advisory committee. Since the BMPs are in the handbook we could assemble another advisory committee to address this issue.

The basic reason you have it in tributary strategies is the accounting in the Chesapeake Bay program.

Mr. Kiser: One additional comment on the stormwater management program. I did not hear anyone talk about low impact development. Is that an issue?

Mr. Hill: For low impact development, the law requires us to “encourage” it. EPA is encouraging us to require it through the MS4s and through our general permit. However, we have indicated that the law encourages low impact development.

Mr. Kiser: If that is the case, we have to have an alternative inspection report or addenda to the one you are proposing for us to consider low impact development.

Craig Carinci, Fairfax County

Mr. Carinci: I am Craig Carinci with Fairfax County.

How are you going to select who will serve on the TACs? Do you have a number of positions or slots that are open for local jurisdictions?

Mr. Hill: We have a list of names that have already been sent to DCR and others are still coming in. DCR management will review the requests and recommendations and develop a balanced Committee. We have to decide if we want one or two TACs. We will have to determine how many people we want on it so that it remains manageable. VACO, VML could also be involved in that process. We have no set number right now.

Ms. Watlington: Anyone else?

Again I wish to remind you that the public is encouraged to comment on the need for regulatory changes and to express their opinions to state officials in a process that is scheduled to take a number of months.

Persons desiring to submit written comments pertaining to these notices and this meeting may do by mail, by the Internet, or by facsimile. We ask that the comments associated with each NOIRA be kept separate or at least made readily identifiable as to which NOIRA the comments are related to. Comments on either NOIRA should be sent to the Regulatory Coordinator at: Virginia Department of Conservation and Recreation, 203

Governor Street, Suite 302, Richmond, Virginia 23219. Comments also may be emailed to the Regulatory Coordinator at: regcord@dcr.virginia.gov. Or comments may be faxed to the Regulatory Coordinator at: (804) 786-6141. All written comments must include the name and address of the commenter (e-mail addresses would be appreciated also). In order to be considered, comments must be received by 5:00 PM on February 24, 2006.

I want to thank you for attending this afternoon and sharing your thoughts with us. This public meeting is now closed.

I hope that everyone has a safe trip home.