

**Virginia Soil and Water Conservation Board
Stormwater Management Technical Advisory Committee
Patrick Henry Building, Richmond, Virginia
September 10, 2008**

Stormwater Management Regulations Technical Advisory Committee Members Present

Michelle Brickner, Fairfax County
Joseph Battiatia, CONTECH Stormwater Solutions
Doug Beisch, Williamsburg Environmental Group
Barbara Brumbaugh, City of Chesapeake
F. Todd Chalmers, Balzer and Associates, Inc.
Jack Frye, Virginia Department of Conservation and Recreation
Mike Gerel, Chesapeake Bay Foundation
Normand Gilbert, Northern Virginia Regional Commission
Barrett Hardiman, Home Builders Association of Virginia
Steven P. Herzog, Hanover County
Lee Hill, Virginia Department of Conservation and Recreation
William J. Johnston, City of Virginia Beach
Bob Kerr, Kerr Environmental Services Corporation
Steve Kindy, Virginia Department of Transportation
John Matusik, The Engineering Groupe, Inc.
Roy Mills, Virginia Department of Transportation
Doug Moseley, GKY & Associates, Inc.
Fernando Pasquel, Bauer
Jeff Perry, Henrico County
Chris Pomeroy, Aqualaw PLC
David Rundgren, New River Valley PDC
Alyson Sappington, Thomas Jefferson Soil and Water Conservation District
Ingrid Stenbjorn, Town of Ashland
William H. Street, James River Association
George Simpson, Roanoke County
John Tippet, Friends of the Rappahannock
Joe C. Wilder, Frederick County

Stormwater Management Regulations Technical Advisory Committee Members Not Present

Kevin Haile, Loudoun County
Gerry Seeley, Jr. Virginia Department of Environmental Quality
Mark Smith, U.S. EPA Region III

Facilitator

Barbara Hulburt, The McCammon Group

DCR Staff Present

David C. Dowling	Ryan J. Brown
Eric Capps	Scott Crafton
Michael R. Fletcher	Doug Fritz
Holly Sepety	Shawn Smith
Christine Watlington	
Elizabeth Andrews, Office of the Attorney General	

Other Present

Kirk Bowens, McKinney & Co.
Shelly Frie, CH2M Hill
Brent Fults, Earthsource Solution
Julie Hillegass, HRPDC
Glen Payton Fulterra
Scott Reed, ESS
Shannon Varner, Troutman-Sanders
Michelle Virts, Timmons Group
Brian Wagner, Balzer and Associates
Keith White, Henrico County

Ms. Hulburt called the meeting to order and welcomed attendees. She turned to Mr. Dowling for a review of the agenda.

Ms. Hulburt said that members had been provided with a revised version of the discussion document on fees. A copy of that revised version is available at the following link: <http://www.dcr.virginia.gov/documents/swmdisdocfees.pdf>.

Ms. Hulburt said that the goal for the meeting was to move through the information. He said staff would also provide information from the design charettes.

Ms. Hulburt said that at this stage DCR was preparing to move forward with recommended proposed regulations to the Board and that it would be helpful to know where members stood with the regulations as presented.

Ms. Hulburt said there would be additional opportunity during the public comment period to continue the discussion. She said that the document moving forward to the Board is not a final version and would be subject to change based on public comments received.

Ms. Hulburt said that points of agreement or disagreement by the TAC members and public comment will be noted. She said the goal was to talk through and understand as much as possible where everyone was.

A member asked if there would be a test for consensus.

Ms. Hulburt said that would be an option but would be determined by the direction of the conversation.

Ms. Hulburt asked Mr. Crafton to give an overview of the design charettes.

Mr. Crafton said that the first of two 2nd round design charettes had been held. He noted that a number of the TAC members participated. About 45 people total including DCR staff participated in the exercises. He said that the initial invitations went to those who participated in the first round of charettes. He said that invitations had also been sent to design firms to make sure as many as possible were involved.

Mr. Crafton said that the rationale in inviting previous participants was that this version of the spreadsheet was more complex and that participants would have a shorter learning curve in use of the spreadsheet. He said there were basically two plans addressed by the charettes.

Mr. Crafton said that the major difference with the charettes is that participants were not constrained by the information provided on the worksheet.

Mr. Crafton said that a workshop 2nd regarding the spreadsheet would be held in Northern Virginia on September 16. He said this was an opportunity for people to become exposed to the updated spreadsheet. A number of these workshops will be held around the state.

Mr. Dowling said that the workshops would be held well in advance of the public comment period.

Mr. Crafton said there had been significant interest in the methodology and in the workshop.

Mr. Crafton said that developing the explanation of the beta version had taken longer than expected. He said there is now a process built in to the spreadsheet that provides a better accounting of pollution reduction from sequential BMPs. He noted that the water quantity computations were added as a separate page to the worksheet.

Mr. Crafton said that the charettes produced interesting feedback. He said that some people who had been at the first charettes had wanted a site plan to develop a solution. However, others were pleased with the idea of beginning with a clean site. He said that some of the issues with working with a clean slate were that there was no set of local zoning or subdivision codes to set the standards.

Mr. Crafton said that a couple of groups reported that they had to run the energy balance equation and that they had no additional retention applied or minor additional retention needed.

Mr. Crafton said the intent is to do more testing. He said with the charettes throughout the fall and winter there will be time for additional site plan testing.

Mr. Crafton said that on the water quality side, participants seemed to feel that this version had improved from the prior version. He said that on the water quantity side there was discussion about the adjustment of numbers provided in the methodology.

Mr. Crafton said that he believed the spreadsheet to be a good and valid tool. He said that changes from this point on would be minor and would not likely have a major impact on the outcome of the regulations. He said there had been some discussion regarding taking water quantity out and developing a separate spreadsheet.

A member asked if there had been further discussion with the Williamsburg Environmental Group (WEG) regarding early testing.

Mr. Dowling said that work was being done through the James River Association (JRA) with WEG. He said that at the time DCR did not have additional details.

Mr. Crafton said that WEG was represented at the charettes and is proceeding with the work.

Mr. Dowling said that the intent was to take the proposed regulations to the Soil and Water Conservation Board on September 24. He said if the Board authorized the regulations, staff would compile the necessary paperwork to proceed. That would include economic and technical impacts. That information will be posted on the Regulatory Town Hall.

Mr. Dowling said that the Department of Planning and Budget would have 45 days to do the economic analysis. From that point the regulations would go to the Secretary of Natural Resources and then to the Governor for review and approval.

Once those approvals are received, the regulations would be published for public comment. A 60-day public comment period would follow, most likely sometime in the spring. DCR will hold a series of public hearings across the state to receive comments.

Following that public comment period, DCR would propose a final version to the Board in late summer or early fall of 2009. Following Board approval there would be an additional 30-day public comment period.

Mr. Dowling said that the hope was to finalize the regulations by December of 2009.

Ms. Hulburt said that the TAC would move forward with the review of Part II.

A member asked that DCR review the changes from the last version to the version presented at the meeting. The version presented at the meetings is available at the following link: <http://www.dcr.virginia.gov/documents/swmdrft091008p123.pdf>

Mr. Brown said that there had been no additional changes to Part II from what was previously sent to TAC members.

Ms. Hulburt began the review.

4VAC50-60-40 Authority and applicability

There were no changes to this section.

4VAC50-60-63 General Objectives

There were no changes to this section.

4VAC50-60-56. Applicability of other laws and regulations.

There were no changes to this section.

4VAC50-60-63. Water Quality Criteria Requirements

A member said that since the TAC had just received in the discussion document on the 0.28 limit he wanted to know where the tables in the discussion document came from.

Mr. Frye said the information was compiled from the Bay Model regarding what the acreage is by basins. He said this information was what is in the tributary strategies.

A member asked about the 2002 assessment and the 2004 assessment. He asked if the 2004 assessment was projected to be the goal. He said that on the first sheet indicated 1.6 million acres for urban and the second sheet indicated 1.5 million acres. He asked if that was projected with development and how 100,000 acres of urban lands were lost?

Mr. Frye said that that every year there is reporting to the Bay program. Acres become treated, but the model also has a land use change in it so that over time urban acres would increase.

A member said that given that argument he would agree, but that was counterintuitive to the numbers presented.

Mr. Frye said there are some issues with the land use in the input deck that he thought would be improved in the next model.

A member said there were significant assumptions with the use of the 0.28 number. He said that if a site is designed perfectly following the standards, the 0.28 would not be needed.

A member said that it had been discussed several times that language should be included that said if the design meets the requirements in Section 50-60-75, then the site would have been deemed to have met the 0.28.

Mr. Dowling said that language had been previously included in 50-60-65 and now language has been added in 50-60-63. He said that staff had tried to respond.

A member said it needed to be clarified that this was not an effluent limit.

Mr. Brown said that it was a limit, but that compliance was determined by the spreadsheet.

Mr. Hill said that the 0.28 was the load limit and the spreadsheet was the tool to reach that goal.

Mr. Brown said the intent is for the spreadsheet to reach the 0.28 number. He said if there is a problem on an individual site with the spreadsheet, the developer would not be penalized.

A member said this was more of a technology based statement. He said it looked as though compliance was based solely on the spreadsheet.

A member noted that this was not a traditional point source so that the load limit could not be clearly monitored. He said that the Chesapeake Bay Act was adopted to use the same concept of having the load limit. He said as long as computations were done in accordance with the regulations that was acceptable.

A member expressed a concern that compliance was based solely on the use of the spreadsheet.

A member suggested adding on line 853 "calculated according to the spreadsheet."

Mr. Dowling said that DCR would review this section with those considerations.

A member said that an engineer had expressed to him concern regarding the certification that is being required. He said the concern is certifying the quality. He said they were comfortable in certifying the procedure, but not necessarily the quality.

Mr. Brown said that was addressed in Part III and had been discussed at the last TAC meeting.

A member said this was a design standard applied by licensed engineers at the front end.

A member expressed concern with the 0.28 number and said that if treatment volumes for forest land were added, the number would be above 0.28.

Mr. Hill said that concern would be corrected in the spreadsheet.

A member expressed a concern that on line 844 he had understood that the language would be "within each HUC or locally designated watershed."

Mr. Dowling said that the locally designated watershed was intentionally not included here. However, he said that further in the regulations, that load reductions were allowed on a watershed basis through a watershed plan.

A member suggested there could be a problem when there was no watershed plan in place. The regulations would not allow the crossing of a HUC boundary.

Mr. Crafton said that DCR's concern was that the compensatory treatment not get too far afield from the stream being impacted.

A member said that it did not make sense to not allow a locality to have a program to address that scenario.

Ms. Hulburt asked if there was compromise language.

A member said that he wanted to make sure this section read with the same flexibility outlined under 50-60-96. But he noted the requirement to get Board approval.

Ms. Hulburt said that the ability to do it is there, but it must be in an approved plan.

Mr. Dowling said that nothing that predicates precisely what the plan is under 50-60-96 in terms of an administrative process. He said that the section said that there will be a comprehensive plan produced by the locality that comes to the Board for consideration.

Ms. Hulburt said that what she was hearing was that there is flexibility in how such a plan will be prepared and how it will proceed to the Board.

A member asked if there was a reason the Board would deny approval.

Mr. Hill said there may be cases when DCR would recommend denial.

Mr. Capps said that 96a said “Such plans shall ensure that offside reductions equal to or greater than those that would be required on each contributing land disturbing site are achieved within the same HUC, or within another locally designated watershed.”

Mr. Capps asked if that addressed the concern.

A member asked if every time there was a change if that would have to go back to the Board.

Mr. Capps said that was a different question.

Mr. Dowling said that Mr. Capps was pointing out that the phrase “within another locally designated watershed,” was the specific language added in response to the previous comments.

Mr. Crafton said that as a local plan is put together and submitted it could provide the flexibility. It could set up a list of circumstances that might call for a decision that was different than the norm, but there would be structure to the decision process.

A member said that over the course of the regulations there was concern about having to go to the Board for every decision. He said given the elevation of the program, the fees and the implications for land use it would be help to establish a process by which appeals are dealt with a lot quicker than the Board’s two month schedule.

Mr. Dowling said that the whole regulations are predicated that all authority rests with the Board. He said the Board has authority to pass and delegate all authorities to the Department and has other than the promulgation of regulations. He said there are abilities that should the Board wish to provide that ability to the Department, the Board could do that.

Mr. Dowling said that a number of references to Board approval were removed in the last two drafts.

Ms. Hulburt noted that members had been discussing what their plans would look like and the degree of flexibility that could be built into a plan.

A member expressed a concern about the 20% reference on line 849. He said that he read the overview that was sent out by staff with the discussion on the 0.28. He said that document said that “continuing discussions with the current TAC resulted in the selection of 0.28 lbs/acre phosphorus per year for new development and a 20% reduction in phosphorus load from redevelopment as the statewide water quality standards.”

The member said that was misleading because of the concern of how the number went from 10% to 20% and the impact that would have on redevelopment. He said that the

charettes may have discussed this but that the language indicated a buy in, but that he was not certain that the TAC had considered this as far as the impact it will have.

Mr. Dowling said that was not the intent of the language, nor was it intended to imply consensus.

Mr. Dowling noted that the drafts originally before the Board referenced 44%. That is what the tributary strategies say is necessary. He said this number had been reduced from 44% to 20%.

A member said that to get to the 0.28 there was an assumption that every square inch of land in the Chesapeake Bay Watershed, including 8 million acres of forest land, would be developed. He said that was a gross over simplification and noted that the Chesapeake Bay Watershed only applied to 50% of the state. He said that applying the 0.28 to half the state that does not filter into the Chesapeake Bay is way beyond what needs to be done. He said that this was for the edge of the stream and that there was a six million pound allocation for the entire Chesapeake Bay. He said a quarter of a pound of phosphorus that hit the James River in Lynchburg would not be a quarter of a pound phosphorus when it hit the Bay.

The member said that looking at the numbers from 2002 if agricultural lands were developed under the current regulations a pound of phosphorus per acre would be removed just by changing the land use. He expressed a concern that consideration had not been given to the actual science behind the numbers. He said that the one size fits all approach was wrong and would not work.

A member said that he did not understand the model to assume that all forest lands were converted to urban. He said this was just forecasting growth and retaining lands.

A member said that it was basically taking all the undeveloped land and figuring out the load. If the developed land can meet that standard, it will meet the tributary strategies.

The member said that the point that needed to be emphasized was that the objective of these numbers was to implement good BMPs statewide.

A member said that the 20% number was included in the last draft, but noted that the 44% was not a regulatory standard.

Mr. Dowling concurred but noted that the 44% number had been in the document for more than half the year and had been included in discussion drafts with the TAC.

A member said that the memo used the term urban land. He said that urban areas were not necessarily developed areas.

Ms. Hulburt noted again that the tables were drawn from the tributary strategy info and data.

Mr. Frye said that the urban land that is less developed is considered to be mixed open. He said that would include areas where there were large green spaces in an urban environment, including golf courses, etc.

Ms. Hulburt asked if members wanted further discussion or if they wanted to move on to additional discussions. She noted that DCR was saying the number would be 0.28 and would go forward as such.

A member said that three aspects of making this work were design, construction and maintenance. He said that he believed the maintenance was the most critical.

A member said that from an engineering and development perspective there was a concern about redevelopment. He asked what would happen if the 20% is not achievable.

Mr. Dowling said that the numbers would be tested and commented on in the next year and a half and if shown to be needed, would be adjusted prior to the final regulations being adopted.

A member expressed a concern about the current document moving forward as if endorsed by the TAC. He said that there remained many questions that have not been answered. He said that the regulations would have a huge impact on a lot of people and localities.

Ms. Hulburt said that DCR did not intend to present this to the Board as something that was fully endorsed by the TAC. She noted that the concerns being raised were there from the beginning of the process.

A member said that whether or not there was consensus when the document is brought forward from the TAC there were implications that there was consensus.

A member asked if the discussion document would be posted on the DCR website.

Mr. Dowling said that items distributed to the TAC would be posted on the website. He noted that the discussion document was prepared at the request of the TAC.

A member asked if the outstanding concerns would be in the presentation to the Board and whether or not members could get a copy of the presentation.

Mr. Dowling said that the comments received are always a part of the presentation to the Board. He said the presentation would be a public document and available to TAC members.

At this time the TAC recessed for a break.

4VAC50-60-65. Water Quality Compliance

A member asked if instead of BMP efficiencies, a jurisdiction could use other efficiencies.

The answer was yes, if the other efficiencies are more stringent.

Mr. Brown said that the Code set forth the conditions for being more stringent.

On line 808 a member noted that the table was being included in the regulations, but that the design standards would be in the handbook.

Mr. Hill said that the design standards would be on the Clearinghouse website.

A member said that it did not appear that localities had the full picture with the regulations, including the methodologies and the necessary tools.

Mr. Dowling said that the technical components would be included on the DCR website as the process moved forward.

A member said this will have a dramatic impact on the development of new sites.

A member noted that the 1 inch rainfall standard was a big difference. He said that he had a difficult time with such an expensive decision.

A member said there needs to be balance. He said the cost of doing this method should be offset with the cost of not doing this method.

A member noted that in the western part of the state the impact would go from nothing to the standard outlined in the regulations.

Mr. Hill said that was misleading. He said that as of January 2005 any land disturbance greater than an acre had to comply with today's water quality and quantity standards.

4VAC 50-60-66 Water Quantity

A member asked that the symbols in the equations be clearly defined.

4VAC 50-60-72. Design Storms and Hydraulic Methods

There were no changes to this section.

4VAC 50-60-74. Stormwater harvesting

There were no changes to this section.

4VAC 50-60-76. Linear development projects

There were no changes to this section.

4VAC50-60-85. Stormwater management impoundment structures or facilities.

A member asked why Subsection A was needed.

Mr. Hill said that the problem with DEQ said that if DCR does not comment on stormwater management facilities within a tidal or nontidal wetlands or perennial streams then they assume that it is acceptable with DCR. This statement is to note that DCR does not recommend this permitting.

A member said that the question was that there was an agency that would issue the permit unless that agency heard differently from DCR. He said that DEQ is the agency with oversight and asked why DCR would comment.

Mr. Fritz said that the reason was that it sets up a conflict under the stormwater law.

Mr. Crafton said that in previous discussions, localities were concerned about the reference to federal regulatory programs and that the wording might imply that local governments were being required to enforce federal regulations.

Mr. Crafton said that DCR does have the responsibility for the floodplain management program, associated with FEMA. He said the intent was to remove DCR from Subsection A, but if that was not clear the section should be rewritten to be more specific.

A member said that he viewed this as DCR entering into the issue by saying it was not recommended.

A member said the concern was that DEQ would use this section as leverage to deny a permit.

A member suggested saying that the design and construction of impoundment structures or facilities must be in accordance with a Virginia water protection permit.

A member said that the DEQ standard is different.

Mr. Crafton said that there were connections through the Chesapeake Bay Act as well. He said that DCR had believed this language would address the concerns.

A member suggested on line 1067 removing the phrase “should be avoided” and inserting “is not recommended.”

A member said that the term impoundment structure should be clarified.

Mr. Dowling said that the definition of impoundment structure is embodied in the Code and in the Dam Safety Regulations.

A member suggested that information be cross referenced in this section.

Ms. Hulburt said that the endpoint of the discussion was to try to minimize the language in question or to avoid any possible conflicts with other regulatory programs.

A member asked if there was consensus so that it would be clear with revisions to the next version of the document. He said that if Subsection A simply required that everything built in nontidal wetlands should be in compliance with any required permit that governs.

A member said that DEQ wanted something stronger.

The member said Subsection B should remove “unavoidable” and say “shall be in compliance.”

Mr. Capps said that the current regulations say that when this is unavoidable all stormwater management facilities shall be in compliance. He asked if this had caused a problem under the current regulations.

A member said that the current regulations do not say “not allowed” or “not recommended.”

Mr. Capps said that the current regulations say that construction of a stormwater management impoundment structures within the FEMA designated 100-year flood plain shall be avoided to the extent possible. When this is unavoidable, all stormwater management facilities construction shall be in compliance with all applicable regulations under the national flood insurance program.

Another member said that the issue was that from a locality standpoint someone could say that the regulations says this should be avoided but that the permitting authority allowed the developer to build. He said that the current language said this should be avoided to the extent practicable. He said that yes, this could be a significant issue for localities.

Another member said this could raise legal issue for the localities.

Ms. Hulburt asked if there was a reason not to put the original language back in.

Mr. Brown said that he could not answer the question at this time, but noted that staff had heard the discussion and would spend time considering this to develop the right answer.

4VAC 50-60-93. Stormwater Management Plan Development

A member asked if development is covered by the permit, would the lots be covered indefinitely? If twenty years from now a homeowner wanted to make modifications to their back yard would the lot still be covered?

Mr. Capps said that any land disturbance would require a permit.

Mr. Hill gave the example of a 100 lot development. If not all of the lots are developed, at a future time the lots would require a permit if they met the greater than one acre threshold.

Ms. Hulburt clarified that once the activity under the permit is completed, new activity would require a new permit.

4VAC 50-60-96. Comprehensive watershed stormwater management plans.

A member noted a needed cross reference regarding Board approval.

Mr. Dowling said that this would be spelled out as the Board or Board designee.

A member questioned the reference to state and federal agencies on line 1107. He asked why it the reference said "may" and not "shall."

It was explained that DCR could not impose requirements on another state agency or the federal government.

Mr. Brown said that another section dealt with state agencies, but the concept in this section was different. He noted that this section needed reorganization to further clarify the issue.

Ms. Hulburt asked if there were additional comments regarding this Part II.

A member said that much of the information was based on the tributary strategies and that the information went into the tributary strategies was suspect.

A member expressed a concern about achievability.

A member asked if a comparable effort had been done with runoff from agriculture.

Mr. Dowling noted that hundreds of millions of state and federal dollars had been dedicated to Agriculture BMPs and other strategies.

A member noted that was voluntary.

Mr. Capps said that some was voluntary, but not all.

A member expressed a concern that the focus be directed to the point of getting the greatest reduction for the dollar.

Mr. Dowling said that the efforts need to be done across the board. He said that the Commonwealth was collectively working on reducing nutrients from all sources and that the stormwater management regulations were a piece of that puzzle.

At this time the TAC recessed for lunch.

Following lunch, the TAC began a discussion of Part XIII – Fees. A copy of the discussion draft is available at the following link:
<http://www.dcr.virginia.gov/documents/swmdrftlangp13.pdf>.

4VAC 50-60-700. Purpose.

Mr. Dowling noted that lines 17-27 were new language and the fees on the table in lines 242 and 243 had been slightly altered.

4VAC 50-60-720. Authority.

There were no additional changes to this section.

4VAC 50-60-730. Applicability

There were no additional changes to this section.

4VAC 50-60-740. Exemptions.

There were no additional changes to this section.

4VAC 50-60-750. Due dates for Virginia Stormwater Management Program (VSMP) Permits.

There were no additional changes to this section.

4VAC 50-60-760. Method of payment.

A member noted that at a previous meeting there had been a discussion regarding fees and the of the enterprise site.

Mr. Dowling said that other payment vehicles would be available if the enterprise site was not ready.

The member noted that language said that the owner could pay DCR or the locality.

4VAC 50-60-770. Incomplete payments and late payments.

There were no additional changes to this section.

4VAC 50-60-780. Deposit and use of fees.

A member said that he continued to believe that the 30% to DCR was excessive. The member said that a significant increase in permits would result in a significant amount of revenue.

Mr. Dowling said that as DCR had administered the program for three years the numbers had remained relatively consistent.

A member said that localities are required to submit monthly reports, but that the numbers were not reflected.

Mr. Dowling said the current projections were based on the actual numbers.

Mr. Dowling noted that DCR did revise their share to 28% based on a review of the calculations.

A member asked about refunds to those projects that are not completed. He said that he thought part of the fee was to be directed to maintenance.

A member asked why DCR needed 30 staff people to provide oversight for 179 local programs.

Mr. Dowling said that based on DCR's projected need for administering local programs that the number listed was the minimum.

A member said that he saw nothing for program costs after initial construction.

Mr. Dowling said that the fees were developed to get to the point of permit termination.

Mr. Dowling said that the fees were DCR's only source of revenue to administer the program. He said the need to establish fees was set out in the Code.

Mr. Maroon noted that the program was set up for DCR to provide oversight to the entire program.

A member asked if the fee would actually be set at 130%.

Mr. Dowling said that the fee was designed to cover 100% of the total cost to the locality. The cost for DCR oversight was then added to that amount.

Mr. Dowling noted that the language allowed for an annual increase in fees. He said that an assessment and necessary adjustment of the fees was also built into the language.

A member thanked DCR for the discussion paper and response on the cost. He asked that DCR consider how the baseline cost was allocated.

Mr. Dowling said that future amendments to the fees could be done through the fast track regulatory process.

A member noted that there needed to be a provision for long-term maintenance and inspection.

Mr. Dowling said the concern was whether it was fair to charge the developer for the long-term costs of the BMPs.

A member said that it was not for the developer to cover, but that maintenance was the owner's responsibility.

A member noted that the law said the fees should be for running the program.

Mr. Brown said that DCR would consider the fundamental question of whether fees would be adjusted to allow for long term maintenance.

4VAC 50-60-790. General.

There were no additional changes to this section.

4VAC 50-60-800. Fee schedules for VSMP Municipal Separate Storm Sewer Systems new permit issuance.

There were no additional changes to this section.

4VAC 50-60-810. Fee schedules for major modification of MS4 individual permits requested by the operator.

There were no additional changes to this section.

4VAC 50-60-820. Fees for an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities.

A member asked when, with the current schedule, the fees would be assessed.

Mr. Dowling said that if the regulations go into effect in December 2009 there would be some modification of current fees. (ex. 2,500 sq. ft-1 acre effective). Other fees would commence when coverages are issued by a Board approved local program.

4VAC 50-60-825. Fees for the modification or transfer of individual permits or if registration statements for the General Permit for Discharges of Stormwater From Construction Activities.

There were no additional changes to this section.

4VAC50-60-830. Permit maintenance fees.

There were no additional changes to this section.

4VAC 50-60-840. Annual increases in fees.

Mr. Dowling said that the permit fee would be submitted in two components, 50% up front and 50% at the time of the registration statement.

At this time the TAC took a break.

Following the break, the TAC began a review of Part III.

4VAC 50-60-102. Authority and Applicability

There were no additional changes to this section.

4VAC 50-60-104. Technical criteria for qualifying local programs.

A member asked if the criteria were approved when would the new standards apply?

Mr. Dowling said that in the interim, the criteria would remain as they are currently. The would need to be incorporated into a new Construction General Permit

The member said that localities would have criteria that did not match the state criteria. She asked if there would be a phase in of the criteria.

Mr. Brown said that these standards would not become effective until a new permit is issued by a Board approved local program.

A member suggested the need for a transition policy.

Mr. Dowling said that DCR had been discussing that.

4VAC 50-60-106. Qualifying local program administrative requirements.

There were no additional changes to this section.

4VAC 50-60-108. Qualifying local program stormwater management plan review.

It was noted that the references to partial refunds as well as the references to threatened and endangered species had been removed.

4VAC50-60-112. Qualifying local program authorization of coverage under the VSMP General Permit for Discharges of Stormwater fro Construction Activities.

There were no additional changes to this section.

4VAC 50-60-114. Inspections

A member said that this section should address long-term inspections.

4VAC 50-60-116 Qualifying local program enforcement

A member said there should be a definition of marginal, moderate, and serious.

A member asked why the decision was made to include a schedule in the regulations.

Mr. Dowling said that was required by law.

Mr. Brown said this language was taken from the stormwater enforcement manual.

4VAC 50-60-118. Hearings.

There were no additional changes to this section.

4VAC 50-60-122. Qualifying local programs: exceptions

It was noted that the first two sentences needed additional clarification.

4VAC 50-60-124. Qualifying local program: Stormwater Management Facility maintenance

A member said that a concern was the dependence upon the property owner for maintenance. He asked if there was a way that funds could be identified to see that these will be maintained.

It was noted that the section regarding maintenance had been removed because of concerns of paying for that up front.

4VAC 50-60-126. Qualifying local program: reporting and record keeping.

A member said that it was important to ask for the needed information.

It was noted that on Part IIIB and Part IIIC nothing had changed since the August 22 meeting.

A member asked about the accounting procedures.

Mr. Hill said that the hope was that the process would be fairly simple.

A member said that the bottom line was that localities be able to show that expenditures match the funds collected.

Part IIID

A member asked about the audit cycle.

Mr. Frye said that would be no less than a 5-year cycle, but could be more frequent.

Mr. Dowling said the intention was to seek a three-year review cycle.

Part I

Ms. Hulburt directed the TAC back to additional considerations under Part I.

A member asked about the definition of stable.

Mr. Dowling said that previous conversations had indicated that stable would mean that a channel does not re-grade or degrade.

A member asked how that would be quantified.

Mr. Hill said that would have to be addressed in the handbook. He said that did not mean that the channel would stay in one place but that the pattern and profile would remain the same.

Mr. Dowling said that could be clarified in further guidance.

A member noted that language said impervious surfaces included but are not limited to roof, noting that a green roof is a roof.

Mr. Dowling said that the intention was a conventional roof, not a green roof.

Ms. Hulburt turned the meeting over to Mr. Dowling for closing remarks.

Mr. Dowling said that the dialogue would continue. He said that DCR understood there was not consensus but that the intent was to move the document forward to the Board for further discussion. He said staff would continue to make necessary changes as the process moved forward.

Mr. Dowling thanked Ms. Hulburt and the TAC members for their participation in the process.

The meeting was adjourned.