

**THE DRAFT SUMMARY OF THE MEETING OF THE  
REGIONAL ENVIRONMENTAL COMMITTEE  
November 7, 2013**

**1. Summary of the October 3, 2013 Meeting of the Hampton Roads Regional Environmental Committee**

The Summary of the October 3, 2013 Meeting of the Hampton Roads Regional Environmental Committee was approved as distributed.

**2. Public Comments**

There were no public comments.

**3. Coastal Zone 309 Grant Project Update**

Ms. Jenny Tribo and Ms. Sara Kidd, HRPDC, updated the Committee on the status of the HRPDC's Coastal Zone Section 309 grant project. Ms. Tribo described changes made to the report since the previous draft. Ms. Kidd, HRPDC, updated the Committee on the modeling component of the report. The analysis now includes a comparison of traditional and cluster development using a case study in Suffolk. The results show that using clustering and other environmental site design techniques can provide significant reductions in nutrient loads.

Mr. Bill Johnston, Virginia Beach, and Ms. Gayle Hicks, Hampton, pointed out that developers might complain about having to reduce lot sizes. In addition, there may be concerns about losing waterfront lots from a marketing standpoint. They asked if the analysis looked at the costs and benefits of stormwater treatment versus property values of smaller lots. Ms. Tribo stated that the analysis did not include those components since it was only comparing stormwater runoff, but that it could be looked at in the future.

Ms. Ellen Roberts, Poquoson, stated that cluster developments could result in more conserved area, less runoff, and higher lot yields. Comparing lot yields between traditional and cluster development would be useful.

Ms. Connie Bennett, York County, asked if wetlands on a site affected the runoff calculations. Ms. Tribo stated that wetlands are treated as forest in the VRRM spreadsheet.

The Committee recommended that the Commission approve the report for publication and distribution.

#### 4. Nutrient Trading Regulations

Ms. Whitney Katchmark, HRPDC, briefed the Committee on recent developments regarding nutrient trading. The Nutrient Trading Regulatory Advisory Panel met on October 17 to discuss draft regulations. The purpose of these regulations is to create a certification process for nutrient credits for non-point sources. A process for point sources already existing. The new process will cover non-point credit generating activities such as land conversion and agricultural and urban BMPs. The regulations will not cover whether or not credit trading can be used to meet permit requirements or the use of credits already covered in the Construction GP, MS4 permits, or other VPDES permits. Credits must be allowed to meet Construction GP requirements up to the basin scale unless the discharge impacts local water quality. Under the program, either nitrogen or phosphorus can be traded for a credit generating activity. You cannot trade both for the same activity, and sediment is not covered. For local governments with MS4 permits, credits could be purchased to meet permit requirements or sold to others. Developers can use credits to meet Construction GP requirements. Key sections of the regulations are:

- 1) Credit calculation procedures
- 2) Inspection and monitoring
- 3) Financial assurance
- 4) Defining baselines for land conversion, agriculture, and urban stormwater
- 5) Public notification and comment
- 6) Protection of local water quality

The urban baseline for new construction is 0.41 lbs P/acre/year; for redevelopment, the standard is a 10-20% P reduction based on the size of the project. Retrofits are based on WIP goals. Localities can claim reductions to meet the baseline for both redevelopment and retrofits. A credit generator can certify reductions exceeding the baseline and sell them.

The enabling Act only required public notification that DEQ had certified credits. The RAP suggested a comment process to increase transparency and to create certainty and increase confidence in the trading process. Greater transparency could also help avoid challenges to permits that used credits to meet requirements.

The Construction General Permit allows credits to meet requirements. The only new restriction in the proposed regulations affects where the credit is generated compared to the facility buying the credit. If a local nutrient TMDL exists, then the credit must be within the TMDL watershed. If the water body is impaired, but there is no TMDL, then the watershed is not defined by DEQ. However, a hierarchy encourages purchasing credits near the facility buying the credit.

The next steps for the RAP are to review DEQ's final changes and provide comments and to see if EPA exerts any pressure to change the regulations to match the draft Technical Memo.

Mr. Brian Swets, Chesapeake, asked if there has been any discussion on the liability for credit maintenance. Ms. Katchmark stated that if the state certifies it, then the person selling the credits is liable for maintenance. Mr. Swets then asked what would happen if the credit disappears in the future (e.g., the forest is cut down or burns). Ms. Katchmark stated that if the credits are revoked, then it is up to the purchaser to find new credits or treat the stormwater.

Ms. Barbara Brumbaugh, Chesapeake, asked who is enforcing the credits. Ms. Katchmark stated that DEQ certifies the credits. Ms. Brumbaugh asked what would happen if a perpetual credit was purchased but later revoked, and if there is a way to check a list of credits for confirmation.

Ms. Roberts commented that a records search would ideally be a part of the e-permitting site.

Ms. Brumbaugh asked if developers could sell term credits. Ms. Katchmark stated that they can.

Mr. Swets asked if developers can place restrictions on certain lots to create credits. Ms. Katchmark stated that they would have to meet certain specifications in the handbook first before they could be sold or traded.

Ms. Bennett asked if the credits get recorded in the locality. Ms. Katchmark stated that the locality gets a notification within 30 days as there might be impacts on local land use and zoning.

The Committee also discussed the possibility of localities creating their own banks and buying/selling/giving credits. Ms. Katchmark stated that this is possible under the current regulations.

## **5. TMDL Project Updates**

Ms. Jennifer Howell, DEQ, updated the Committee on the status of several local TMDLs. The TMDLs for the Poquoson and Back Rivers have been delayed in delivery from EPA due to furloughs but are on the way now. The final public meeting was recently held for the Back Bay-North Landing River TMDL and the draft report is now online for public comment. The James River-Elizabeth River PCB TMDL is in a holding pattern but some of the components of the chlorophyll-a model are applicable to PCBs and will be incorporated once VIMS is done with the modeling. DEQ will be collecting more data and samples in 2014. TAC meetings will start in early 2014. DEQ is also starting to look into natural conditions of water bodies and impacts from swampy areas with low DO like the Chowan Basin to assess whether these conditions are natural or if a TMDL should be developed. DEQ is also developing procedures to look at DO in lakes ("significant lakes" that they are monitoring).

Mr. John McLeod, DEQ, updated the Committee on TMDL implementation plans (IPs). An internal IP has been developed for Chuckatuck Creek and Brewers Creek. The Elizabeth River Project is developing an IP for Paradise Creek. Virginia Beach is interested in an IP for the eastern branch of the Elizabeth River. Mr. Weston Young, Hampton, asked if there is an option for public comment on EPA comments. Mr. McLeod stated that there typically was not, but that the EPA comments can be posted on the web. In addition, no studies have been done on natural conditions for bacteria. DEQ is looking into background wildlife loads.

## **6. Coastal Insurance Update**

Mr. Randy Keaton, HRPDC, briefed the Committee on HRPDC's assistance to VACo's Coastal Insurance Task Force. VACo's task force has been looking at the availability and affordability of property insurance in coastal localities. This appears to be an issue that dates back to Hurricane Andrew in 1992. Coverage restrictions appear to be based on a property's distance from the shore. Potential effects include falling home sales due to higher premiums, lack of insurance availability in some areas, and decreased revenue for localities if property values fall. HRPDC has been assisting VACo by collecting and analyzing local property data using GIS and preparing maps for each coastal locality.

Ms. Hicks asked if the maps will be made available. The maps will be posted on VACo's website, and HRPDC staff will make them available directly to localities.

Ms. Roberts asked if VACo was working with other states. Mr. Keaton replied that that was discussed at the last task force meeting, and VACo is looking at what other states have done.

Mr. Skip Stiles, Wetlands Watch, stated that Wetlands Watch recently completed a study on private homeowners insurance changes that is available on their website ([www.wetlandswatch.org](http://www.wetlandswatch.org)).

## **7. Coastal Zone Technical Assistance Report**

Ms. Jai McBride, HRPDC, briefed the Committee on the HRPDC FY12-13 Coastal Resources Management Technical Assistance Program Final Report. The report documents the work done by HRPDC staff to meet the six goals of the program. Major components of the program include a regional coordination process, environmental impact and project review, public information and education, training for local staff, technical studies, and technical assistance. Technical studies conducted as part of the program for FY12-13 included the coastal insurance work with VACo and continuing GIS work to support working waterfronts planning with VIMS.

The Committee recommended that the Commission approve the report for publication and distribution.

## 8. DEQ Stormwater Update

Mr. Noah Hill, DEQ, updated the Committee on stormwater developments. As of November 1, DEQ and DCR services are aligned. Submittal packages are due December 15<sup>th</sup> to the new service area offices. The DEQ website (<http://www.deq.virginia.gov/MyDEQ/ForLocalities.aspx>) has resources for localities including a crosswalk document for statutory changes to state water control law. Applications for local assistance are due November 15<sup>th</sup>. Several upcoming training sessions have been scheduled in the region:

- 1) Nov 19/20, Norfolk, General SW, Workforce Development Center
- 2) Jan 29/30, Chesapeake, Inspector, HRPDC
- 3) Feb 19, Hampton, Inspector, HRCC
- 4) Feb 26, Norfolk, Inspector, Workforce Development Center

The E-permitting site is scheduled to be up and running by July 1, 2014. The Committee discussed the maintenance and continuity of the BMP clearinghouse. Mr. Hill did not know about the contract with Virginia Tech, but it is possible that the contract is being reviewed as a result of the switch from DCR to DEQ. The Committee emphasized the need for continuity and preventing the loss of legacy knowledge in considering whether or not to renew the contract.

## 9. Status Reports

Ms. Kidd stated that the National Park Service is looking for suggestions on new water access points in the Chesapeake through December 1. More information is available at <http://www.baygateways.net/AddPA/index.html>.

Ms. Kidd informed the Committee that the Hurricane Sandy Coastal Resiliency Competitive Grant Program, administered by NFWF, is now open. Details are available at <http://www.nfwf.org/hurricanesandy/Pages/2013rfp.aspx>.

Mr. Johnston stated that there is support for encouraging the governor to increase stormwater local government funding in his budget from \$35 million to \$50 million annually. This is supported by CBF, VML, and others. He suggested placing this on the region's legislative agenda.

Ms. McBride stated that there will be a stakeholder meeting for Envision Hampton Roads on November 13.

Mr. John Harman, VDOT, stated that the agency was awarded a grant with James City County to work on Crocker Road.

Mr. Johnston mentioned that Virginia Beach has received a grant for lake dredging and that the city has begun increasing staff to implement the new local government stormwater program.

Ms. Brumbaugh announced that a construction inspector supervisor position is open in Chesapeake and that the city council will be briefed on stormwater regulations implementation during an upcoming work session.

Mr. David Kuzma, Newport News, announced that the city's new stormwater ordinance will be going before the city council for approval soon.

Ms. Bennett announced that York County staff will be making a presentation to the Board of Supervisors on the new ordinance.

Mr. Clay Bernick, Virginia Beach, announced that the city's planning commission recently approved changes to the city's flood plain management ordinance.

Ms. Katie Cullipher, HRPDC, briefed the committee on a new pet waste station grant program from [askHRgreen.org](http://askHRgreen.org).

## **10. Other Matters**

The next meeting of the Regional Environmental Committee is scheduled for December 5, 2013 at the HRPDC office in Chesapeake, Virginia. Materials will be sent in advance for review.