

VACo 2010 County Supervisors' Forum

January 9, 2010

Jack E. Frye

Soil & Water Conservation Division Director
Virginia Department of Conservation and Recreation

203 Governor Street, Suite 206

Richmond, VA 23219

804-786-2064 www.DCR.Virginia.gov

*State Parks * Soil and Water Conservation * Natural Heritage
* Outdoor Recreation Planning * Land Conservation
* Dam Safety and Floodplain Management
* Chesapeake Bay Local Assistance



DCR: a broad conservation mission

- Virginia State Park System
- Natural Area Preservation
- Land Conservation
- Chesapeake Bay Protection
- State Outdoor Recreation Planning
- Dam Safety and Floodplain Management
- Lead Water Quality Agency for Nonpoint Source Pollution control



DCR Boards

Policy Boards

- Board of Conservation and Recreation
- Virginia Soil and Water Conservation Board
- Chesapeake Bay Local Assistance Board

Foundations

- Virginia Land Conservation Foundation
- Chippokes Plantation Farm Foundation

Other Boards and Commissions

- Breaks Interstate Park Commission
- Virginia Scenic River Advisory Board
- Virginia Cave Board
- Lower James Historic River Advisory Committee
- Invasive Species Working Group



DCR is Lead Nonpoint Water Quality Agency

Since 1985, developed lands fastest growing pollutant source

- Mix of regulatory and voluntary programs
- Funding for nonpoint pollution control has fluctuated dramatically (WQIF and NRCF)
- Needs include:
 - Sustained and adequate funding
 - Expanded Ag & urban BMP tracking & reporting systems
 - Improved outreach to farmers, developers, homeowners, lawn care providers, septic tank owners, etc.
 - Improve compliance in local implementation E&S, SWM, Bay Act
- Provide administrative and financial management assistance to the 47 local Soil and Water Conservation Districts
- Operate 7 regional offices in Richmond, Suffolk, Tappahannock, Warrenton, Staunton, Christiansburg and Abingdon



Key Water Quality Program Areas

- **Erosion and Sediment Control** (Manages runoff during construction - Effective 1972)
- **Stormwater Management** (Manages runoff from post-development activities on construction sites and storm sewer systems of larger localities (called “MS4 jurisdictions”) (federal requirements under Clean Water Act)
- **Agricultural Water Quality Programs** (BMP Cost-Share Programs and Nutrient Management plan requirements)
- **Chesapeake Bay Preservation Act** (addresses impact of land use on streams, creeks and rivers, local ordinances)
- **Soil & Water Conservation Districts** ⁽⁴⁷⁾



Carrying out VA's Stormwater Management Program

- “Consistent” local Erosion & Sediment Control Program is foundation for Stormwater Management Program
- VA Soil & Water Conservation Board is working to achieve statewide E&SC compliance of 90% of 164 local programs by July 1, 2010
- Localities in Bay Act area and all MS4s are required to adopt SWM program within 15-21 months after stormwater regulations effective



Ramping up Erosion & Sediment Control Statewide

- 164 local programs overseen by VA Soil & Water Conservation Board
- Revised local program review criteria July 2004; administration, plan review, inspection & enforcement – ALL REVIEWED by end 2009
- Currently 138 programs (84%) are “consistent” with state law; 26 doing Corrective Actions

QUESTION- Is your local E&SC program “consistent”; operating by law?

GOAL: 90% “consistent” by July 2010

Revamp E&SC Program Review Elements & Process

- **Administration:** ordinance, plan review system, inspection, appeals, penalties
- **Plan review:** review process, comply with law, within 45 days, RLD identified
- **Inspection:** timeliness, frequency, documentation
- **Enforcement:** document actions, stop work & compliance, violations resolved

**Start new review cycle in late 2010*



Advancing to VA's Stormwater Management Program

- Consolidation of SW programs to DCR on Jan. 29, 2005
- Municipal Separate Storm Sewer System (MS4)
 - General permit (~89)
 - Individual permits (11)
- Construction General Permit (>1 ac) for land disturbing activities (~5,000 per year)
- From 3 agencies and 4 boards into DCR
- Blending of voluntary & required state SW programs with federal mandated SW requirements (CWA)



Key Points



- Stormwater runoff is a significant contributor to water quality problems in Chesapeake Bay and Virginia waters. Contributes to closing beaches, shellfish beds, downstream flooding, channel erosion, etc.
- Some localities have standards exceeding proposed state rules; many localities have NOT addressed stormwater runoff
- Nearly 4 year regulatory process; one of most open and inclusive processes ever
- Virginia is not alone; EPA and many states are aggressively addressing pollution impacts from stormwater
- EPA establishing new accountability measures for states along with consequences for not meeting Chesapeake Bay pollution reduction milestones
- Board will establish through future regulatory action water quality design criteria for new development in Bay Watershed that is consistent with pollutant loadings called for in Virginia Bay TMDL Implementation Plan.

Why regulate Stormwater?

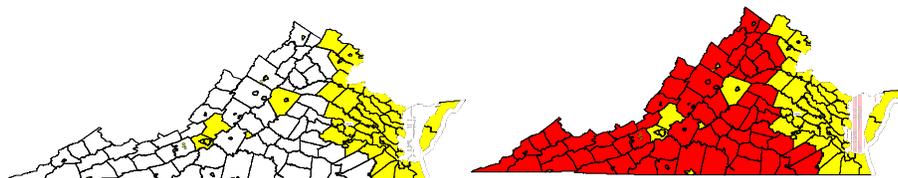
- Regulated for 20 years in areas east of I-95 covered by Bay Act or Larger Municipalities covered by federal MS4 permit. No local programs statewide
- Actual water quality monitoring still showing declines in stream health
- Today's standards still result in significant flooding and channel erosion
- Involves treating runoff during construction as well as long-term runoff post construction
- Concerns both Water Quality (pollutants carried off in SW runoff) and Water Quantity (volume and runoff velocity creating downstream flooding and channel erosion)
- Addressing stormwater management is key component to improving VA's rivers, streams, lakes, and Chesapeake Bay (along with addressing impacts from agriculture, point sources, and air deposition)
- Regulations aimed at reducing the impacts from new construction; even more stringent regulations would be required to have no impact



Future administration of construction stormwater programs in VA

Localities with MS4 permits and localities within the CBPA Area must adopt a local stormwater management program. (yellow)

All other localities may elect to adopt a local SW construction program (Opt-in). Otherwise, DCR will operate a program within a locality. (red)



Regulatory Process

- Process started December 2005
- Over 50 public meetings to develop regs and supporting documents
- 2 Technical Advisory Committees plus subcommittees
- A series of design charrettes (over 400 attended)
- Established BMP Clearinghouse with Virginia Water Resources Center, VT
- Worked with nationally-acclaimed Center for Watershed Protection and the Chesapeake Stormwater Network to develop Runoff Reduction Methodology and new and updated SW practice design specifications
- Over 3400 public comments



Final Stormwater regulation

Three areas addressed:

1. Water Quality and Water Quantity Criteria (Part II)
2. Local Program Administration (Part III)
3. Permit Fee Schedule (Part XIII)

(some definition changes made too)



Local Program Administration

- MS4 & Bay Act localities must adopt program within 15 to 21 months of effective regulation (7-1-2010)
- All other localities can choose to adopt program; DCR to run local program where not adopted
- VA Soil & Water Conservation Board approves
- Provide administration, plan review, inspection & enforcement (similar to ESC components)
- Authorized to issue “construction general permit” for management of stormwater
- Permit fee funded program; fees cover both local and state program costs; locality can adjust local fee



Effective Date of New Regulations

December 9, 2009: Board adopted final regulations

January 4, 2009: Regulations published

July 1, 2010: “Effective date”...Localities know what will be expected...

October 2011-April 2012: phased-in as local programs are adopted with Board approval

Until then, today’s regulations apply.

(Plus, grandfathering provisions can extend use of today’s standards for projects)



Agricultural Water Quality Programs

- Financial incentives: Ag BMP Cost-Share & Tax Credit Programs
- Funding fluctuates; year to year; Water Quality Improvement Fund & Natural Resources Commitment Fund
- Split funds: 55% Bay; 37% Southern Rivers; 8% SWCD Technical Assistance
- Insufficient funding to meet voluntary demand



Agricultural BMP Cost-Share/Tax Credit Programs

5 Priority Ag Best Management Practices

1. Cover Crops
2. Conservation Tillage
3. Nutrient Management
4. Riparian Buffers
5. Livestock Exclusion (from streams)

~90% of ag acres in Bay need BMP treatments to meet goals



Nutrient Management

- Plans written by state certified NM planners
- Considers timing, rate & application of nutrients (fertilizers/manure/litter)
- Cropland, hayland & pasture/ new for “turf”
- Required for livestock and poultry operations, state lands, biosolids; voluntary elsewhere
 - ~ **92% of Chesapeake Bay ag acres with implemented plans**



Comprehensive Nonpoint Pollution Control Approach

- No source too small to consider
- Ag & forestry still mostly voluntary with incentives; requirements increasing
- Developed lands mostly regulated with increasing enforcement of requirements

Neither source can be ignored if water quality goals are to be met!



Nutrient Loading Caps and Bay TMDL - Chesapeake Bay & VA Waters Clean- up Plan Elements

What is a “Cap”. It is a limit or goal; if under, then stay at or under; if above, then try to reach and stay below.
(Nutrients are good...too much of anything is not so good!)

“TMDL Implementation”. State water quality standards are violated, public health threatened, water uses threatened; TMDL sets the pollution limit (cap)



Jurisdiction NPS “Goals”

- Start with Bay model data and then fine tune/set CAP
- Check land use data with local officials
- Based on land uses
- Based on land management
- Evaluate nutrient loadings by land use/management
- Determine NPS loading situation relative to goal
- Identify lands where loading can be reduced by improved land management
- Clarify water supply areas and evaluate land management options

**Managing lands to maintain jurisdiction goals
creates “value” for environmental services**



A Challenging Timeframe - EPA Bay TMDL Deadlines

Phase I - Draft allocations and state strategies

- June 1, 2010 Preliminary phase I plan by source sector and impaired segment drainage area
 - August 1, 2010 –Draft phase I plan
 - November 1, 2010 –Final phase I plan

Phase II – Local target loads and action plans (35 impaired VA segments)

- June 1, 2011 –Draft phase II plan
- November 1, 2011 –Final phase II plan submitted to EPA

What does all this mean for local governments?

- control land use and changes in land use
- some control of land management for pollution control
- Expanding local interest in securing water quantity and protecting water quality for drinking water supply, commercial development, aquatic life and recreational opportunities.

Q. Is water quality and quantity security improving or degrading in your jurisdictions?

