



VOICE

The

of HAMPTON ROADS' COMMERCIAL REAL ESTATE

NEW VIRGINIA STORMWATER REGULATIONS FINALIZED

By Robert P. Kerr, PWS, REP

On August 29, 2011 the Virginia Soil and Water Conservation Board published in the Virginia Register the *Final Virginia Stormwater Management Program (VSMP) Permit Regulations*. These regulations became effective on September 13, 2011, marking the end of a nearly six year process since the Board issued its original *Notice of Intended Regulatory Action* on November 15, 2005. The following is an abbreviated summary of the regulations. The regulations cover many topics, and unfortunately could not all be addressed below.

Schedule for Implementation at the Local Level

While the regulations became effective September 13, 2011, it will be some time before they are implemented by localities. For those localities located within Tidewater Virginia as defined by the Chesapeake Bay Preservation Act, they have no less than 15 months and no more than 21 months following the effective date to adopt ordinances implementing these regulations, with an allowance for an additional 12 month extension. Consequently local ordinances will likely not become effective sooner than December 2012 and would have to be effective between June 2013 and June 2014. Between now and then the DCR is establishing committees with local governments and crafting a model ordinance for consideration by localities among other activities.

Grandfathering

As a member of the Grandfathering Subcommittee, I feel a very fair and balanced grandfathering procedure was achieved that will be of benefit to the homebuilding industry. For those projects that have already secured VSMP coverage under the July 1, 2009 VSMP General Permit, existing stormwater criteria will be grandfathered for the duration of that permit (June 30, 2014), and for two additional permit cycles. As the permits are valid for five years each, the two additional cycles would grandfather stormwater designs until June 30, 2024 as long as the coverage is maintained.

Grandfathering is also available until June 30, 2019 for projects that have not yet secured VSMP coverage but which have achieved one of the following: currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development or "any document determined by the locality as being equivalent thereto" and was approved prior to July 1, 2012. This grandfathering is conditioned on two criteria: 1) the approvals noted above were accompanied by a "layout" (defined in the regulation), and 2) the resulting development will comply with the stormwater regulations in place at the time of the approved project. This grandfathering even allows for modifications or amendments to such previously approved projects based on the committee's awareness that projects rarely are built without some modification. Other forms of grandfathering are available for public projects and those involving governmental bonding or public debt financing.

VSMP Exemption within Chesapeake Bay Act Jurisdictions

Land disturbing activities equal to or greater than 2,500 square feet, and less than one acre in all jurisdictions subject to the Chesapeake Bay Act will not require a VSMP Registration Statement or a Stormwater Pollution Prevention Act but are required to meet all other criteria.

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OUR PRESIDENT'S MESSAGE A Legislative Victory

By Lawrence J. Colorito, Jr., MAI, MRICS, HRACRE 2011 President



This is my last column. I'll spare you the typical I-can't-believe-my-year-as-President's-almost-over commentary. I'm always puzzled as to why the passage of time seems to amaze people. Seems pretty academic to me...sunrise-sunset-repeat. I will say that the past months have gone as expected in many ways, and in some other ways...well, let's just say my expectations were incorrect.

I'm pleased to announce what I consider to be a major legislative victory for commercial real estate. In mid-2010, members of the HRACRE Legislative Committee had an impromptu discussion about the Commonwealth's efforts to ban phosphorus as part of their efforts to keep our waterways clean. It seemed that our industry was going to bear a disproportionate share of the costs because of increased restrictions on and requirements for new development. These HRACRE members encouraged VACRE and our lobbyist, Phil Abraham, to provide the General Assembly with facts that supported our case. This led to recognition that the application of lawn fertilizer at homes and commercial property contributes more phosphorus to the Bay each year than land disturbance for new development. As a result, the final 2011 legislation requires that fertilizer be modified to reduce pollutants as had already been required in Maryland as opposed to developers having to incur such high levels of increased costs. As another positive, yet unintended consequence, the new legislation helps close a gap to make the new Stormwater Regulations more palatable for our industry. This is yet another example of HRACRE fulfilling our mission statement. Thanks to Bob Kerr, John Knibb, and others who were involved.

It's things like this that make me proud to have been chosen to lead this organization this year. Despite my earlier sarcasm it has truly been an honor to be associated with such a great organization. The economic downturn has not deterred HRACRE from our mission. That is a tribute to our knowledgeable and dedicated members. These members work in all disciplines within the industry so that there's almost no commercial real estate-related matter on which we cannot provide leadership – all with volunteers.

We're constantly trying to make things better – coming up with new networking opportunities, better ways to influence legislation, and supporting the industry within the community. Next year is our 20th anniversary. We intend to celebrate it, and the men and women who have helped us become what we are today. We'll pat ourselves on the back a bit, and even laugh about the moments when things maybe didn't quite proceed as planned. I'd like to thank all those who volunteered to help out this year, especially President-Elect Jan Hall, Secretary/Treasurer Skip Sacks, the Board and Executive Committee. Special thanks to our great staff, Dana Walker and Christina Mele. The organization has a bright future with these folks involved.

1ST ANNUAL FALL FEST SUPPORTING THE FOODBANK

(Held November 3, 2011 at Hunt Club Farm in Virginia Beach collecting canned food for the Foodbank of Southeastern Virginia)



NEW VIRGINIA STORMWATER REGULATIONS FINALIZED

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THANKS
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Runoff Reduction Method and Treatment Trains

The new stormwater quality requirements will result in more treatment practices and targeting runoff at its source. The loading limit of 0.41 pounds per acre per year for new development may not look much different than the 0.45 lb/ac/yr standard used in the outgoing Chesapeake Bay Preservation Act procedures, but the methods used in calculating the loading have changed significantly. Compliance will be evaluated through the use of the *Virginia Runoff Reduction Method*, a series of spreadsheets for new development and redevelopment. Benefits to this new approach are that reduction in runoff will equate to reduction in pollutant loading, and that Best Management Practices (BMPs) will now be given additional benefit when used in series (treatment trains). A detriment is that turf is now considered as a source of runoff whereas previously runoff was only computed for impervious areas. The old manner of achieving stormwater quality and quantity requirements with a single wet pond is, for most cases, no longer sufficient.

Redevelopment

For redevelopment greater than or equal to one acre (and no net increase in impervious cover), total phosphorus reduction shall be 20% below predevelopment loading. Redevelopment of less than one acre, with no net increase in impervious cover, must reduce the existing phosphorus load by 10%. Redevelopment involving a net increase in impervious area must use the new development standard for the increased impervious area and use the appropriate redevelopment standard for the balance of the site.

Offsite Compliance and Nutrient Exchanges

There are a number of off-site compliance options including: those on other property owned by the operator, controls established in response to a watershed plan, locality pro rata share program, non-point nutrient offset program, and any other option approved by the applicable state agency or board. Off-site allocations can only be used when in the same HUC code, which are smaller HUC codes than those used by wetland/stream mitigation banks. These options can only be utilized under the following conditions: projects involving less than five acres of disturbance, the post-construction phosphorus control requirement is less than 10 lbs/yr, or at least 75% of the required load is achieved on site. Should less than 75% of the loading be met on site, the proponent can secure an exception from the local program administrator if they meet four criteria.

Maintenance

Long term maintenance is required for all facilities except for stormwater management facilities treating runoff "primarily from an individual residential lot," which is left to the discretion of the administrative authority.

Summary

Clients will need to coordinate with their environmental consultants and/or engineers regarding the particular applicability of the regulations to a specific project due to the specifics of grandfathering, exemptions available and the sensitivity of computations to terrain, soil type, water table depths, as well as existing and proposed land uses.

By Robert P. Kerr, PWS, REP, Kerr Environmental Services Corp., 757-963-2008, bkerr@kerrenv.com.



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The Executive Committee and board of directors of HRACRE would like to thank the following committee chairs who give so willingly of their time to help the organization pursue its mission.



Local Affairs – 2012
Chair, Bob Orlando



Local Affairs – 2011
Chair, Tom Atherton



Design Awards
Chair, Chris Aebel



Public Relations
Chair, Cindy Hall-Beale



Programs – 2012
Chair, Ken Rodman



Programs – 2011
Chair, Carrie Kane



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Mix & Mingle
Chair, Ken Sisk



Fall Fest – 2012
Chair, Pam Ellyson



Fall Fest – 2011
Chair, Kathy Brooks



Membership
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Legislative – 2012
Chair, Ed Ware



Legislative – 2011
Chair, Bob Kerr



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Deals of the Year
Awards
Chair, Brian Baker



Internship – 2012
Chair, Candi James



Internship – 2011
Chair, Matt Dudley

YOU are encouraged to get involved in at least one committee in order to increase your networking opportunities and to make your involvement with HRACRE more rewarding. *“Remember, if you don’t join a committee, you don’t get your money’s worth.”* For more info please contact Dana Walker at 481-2494 or info@hracre.org today.

NEW MEMBERS

(as of November 11, 2011)

Cindy K. Allen, CPSM, LEED® AP, Business Development Coordinator, Clark Nexsen Architecture & Engineering

Stephanie S. Allman, Economic Development Manager, Virginia Port Authority

Leon Ambrose, Project Manager, Mid-Atlantic Building Services, LLC

Shaun Brinkley, Account Manager, Aerotek

Gregg E. Christoffersen CCIM SIOR, Vice President - Hampton Roads Office, Jones Lang LaSalle

Neal Davis, Vice President, Art-Ray Corporation

Jason Deans, CPA, CVA, MSA, Senior Manager, McPhillips, Roberts & Deans, PLC

Steve Harrison, Director of Research, HREDA

Lindsay Heckel, Commercial Sales-Leasing, Cushman & Wakefield | Thalhimer

Darryl A. Henderson, AIA, Associate VP, Business Unit Manager, AECOM

Tim Horkay, General Manager, TFC Recycling

Alexander Hryb, CPA, Assurance Supervisor, Witt Mares, PLC

Michael Hull, Portfolio Manager, Monarch Bank Commercial Real Estate Finance/Monarch Capital, LLC

Anna Johnson, Owner/Business Development Manager, Servpro of Virginia Beach

Lawrence W. Kliewer, Jr., Principal, Cox Kliewer & Company, PC

Richard D. Lutz, PG, Senior Consultant, ESS Group, Inc.

Robert D. Mann, LS, Survey Manager, AES Consulting Engineers

Clayton E. Massey, PE, Branch Manager, Bowman Consulting Group, Ltd.

Jason McKenzie, CPA, Tax Supervisor, McPhillips, Roberts & Deans, PLC

Joseph Modica, PE, Branch Operations Manager, McDonough Bolyard Peck, Inc.

Paul C. Mumford, President, Carrollton Properties, Inc.

Casey J. O'Hearn, Associate Vice President, Jones Lang LaSalle

Tommy Phelps, Estimator, Homeland Contracting Corporation

Kasey M. Pittman, Tax Manager, Cherry, Bekaert & Holland, LLP

Jeffery Rayford, Sr., Project Manager, Homeland Contracting Corporation

Kevin E. Riggins, CPA, MST, Managing Member of Tax Services, McPhillips, Roberts & Deans, PLC

Maureen G. Rooks, Vice President, Jones Lang LaSalle

Jacqueline Sabatino, Office/Lease Administrator, Liberty Property Trust

Pamela Shepherd, Client Relations & Marketing Specialist, Virginia Building Services, Inc.

James L. Smith, III, President of Development, Tri-City Realty & Development, LLC

Joycelyn Spight, VP, Commercial Account Manager, Old Point National Bank

Chris Stuart, Vice President, Top Guard Security

Telly Tucker, Economic Development Assistant Director, James City County Office of Economic Development

Ashley Van Hoose, Marketing Coordinator, WPL

Mark R. Wawner, PE, Project Development Coordinator, Virginia Beach Economic Development

Pamela West, Vice President-Hampton Banking Manager, Virginia Company Bank

5-Year Members

We honor the following who have been HRACRE members for 5 years, having joined in the months of September - December:

Monique S. Bass

Tony Beck

Chris Caton

James D. Finley, III

Thomas A. Herrick

Lester L. Hudgins, Jr.

Anna Maria Johnson

Carrie L. Kane

Gerry Koscinski

Patrick O. Lane, EIT

Jeremy McLendon

Bryan Norsworthy

Amy B. Reineri

10-Year Members

We honor the following who have been HRACRE members for 10 years, having joined in the months of September - December:

Daniel E. Beck

Janice M. Hall, CPSM, LEED® AP, BD+C

Warren D. Harris

G. Cliff Moore

Karen M. Tasch, CPSM

F. Gresham Wall, III

Sam J. Workman, Jr.

15-Year Members

We honor the following who has been an HRACRE members for 15 years, having joined in the months of September - December:

D. Richard Bushey, CCIM

MEMBER NEWS

Jennifer Crain has been named *Chief Executive Officer* of Homeland Contracting Corporation. Formerly she was Homeland's President.

Janice M. Hall, CPSM, LEED® AP, BD+C, Director of Business Development, RRMM Design Build LLC, has been promoted to Vice President.

Stewart J. "Skip" Sacks, Virginia State Commercial Counsel, Stewart Title Guaranty Company, has been asked to return as *Adjunct Professor* at Old Dominion University to teach Finance 498, "Legal Aspects of Commercial Real Estate Transactions," beginning in January 2012. HRACRE members will again be used to bring real world experience to ODU's top Finance and Business majors.



Semi-annually, HRACRE holds Committee Chairs meetings to ensure communication & transparency among the Executive Committee, board of directors & the committees. Pictured here are those who attended the October 2011 meeting at Dominion Tower.

FORESIGHT: Four Questions Answered About Hampton Roads



Craig Quigley

Executive Director,

Hampton Roads Military &

Federal Facilities Alliance

HRACRE: What is the greatest Hampton Roads regional achievement?

I believe our greatest achievement is the tremendous progress made in thinking, planning and acting as a region, rather than individual municipalities. This enlightened view makes us more aware of strengths and weaknesses region-wide, and to then devise smart strategies for moving forward – together.

HRACRE: What is today's biggest challenge for Hampton Roads?

Though it may sound odd coming from someone whose charter is to attract, retain and grow Federal facilities to Hampton Roads, I believe our biggest challenge is to diversify our economy so as to lessen our reliance on the Federal sector. But until that goal is achieved, I have no intention of slacking off my mission!

HRACRE: What would you do to solve this problem?

Take an honest appraisal of our regional strengths and weaknesses, play to the strengths and tackle the weaknesses head on. This is already well underway, but nothing this comprehensive happens overnight. I have every confidence we'll get there, however.

HRACRE: What will Hampton Roads look like in a decade? We will continue to have a strong Federal presence here, despite whatever Federal budget pressures may occur. The citizens of Hampton Roads love their country and sincerely value the service of the men and women who work directly to support our great Nation. Hampton Roads will be thriving ten years from now!

2012 CALENDAR

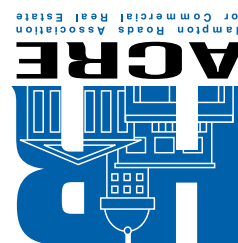
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2/9 Deals of the Year Awards Program

3/15 Luncheon Program

4/19 Oyster Roast

More details at www.hracre.org



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