

Virginia Pollution Abatement Regulation and General Permit for Poultry Waste
 Management

Technical Advisory Committee Meeting

March 25, 2019 - 9:30 A.M.

Virginia Farm Bureau Federation Office – Auditorium

Meeting Notes from Technical Advisory Committee Meeting

Meeting Attendees

TAC Members	Representing
Tony Banks	Virginia Farm Bureau
Hobey Bauhan	Virginia Poultry Federation
Doug Baxter	Tyson Foods, Inc.
Betsy Bowles	Department of Environmental Quality
Kevin Dunn	Peter Francisco SWCD/ Poultry Grower
Jacki Easter	Poultry Grower/ Poultry Waste Broker
Adrienne Kotula	Chesapeake Bay Commission
Seth Mullins (technical support)	Department of Conservation and Recreation
Phillip Musegaas (alternate for Mark Frondorf)	Shenandoah Riverkeeper/ Potomac Riverkeeper Network
Mark Patterson (alternate for Steve Levitsky)	Perdue Foods
Holly Porter	Delmarva Poultry Industry, Inc.
James E. Riddell	Poultry Waste End-User/ Agronomist
Kyle Shreve	Virginia Agribusiness Council
Michael Thompson	Poultry Grower
Pete Watson	Poultry Grower
Joe Wood	Chesapeake Bay Foundation
Darrell Marshall (technical support)	Virginia Department of Agriculture and Consumer Services

Others Present	Representing
Michelle Ashworth	Aqua Law
Stefanie Kitchen	VA Farm Bureau
Peggy Sanner	Chesapeake Bay Foundation

DEQ Staff Present
Melanie Davenport
Drew Hammond
Craig Nicol
Bob Peer
Neil Zahradka

Welcome and Introductions

The meeting was opened at 9:40 AM by Betsy Bowles, the Animal Feeding Operations Program Coordinator for the State and Technical Advisory Committee Lead. Betsy began the meeting by welcoming the group and thanking the committee members for devoting the time to participating in this process. Betsy introduced Tony Banks and thanked Farm Bureau for allowing us to use their facilities for the meeting and for providing refreshments.

Tony Banks provided instructions for meeting space logistics, lunch, and emergency procedures.

Betsy Bowles introduced the DEQ staff and asked the TAC members and members of the public to introduce themselves.

TAC Meeting Protocol

Betsy reviewed the TAC meeting protocols, ground rules for meetings, and the Freedom of Information Act requirements for TAC members. Handouts were provided.

1. Set your cell phones either in the off position or on "vibrate" so as not to disrupt the discussions of the TAC. Take and make all calls outside of the meeting room.
2. Listen with an open mind and heart – it allows deeper understanding and, therefore, progress.
3. Speak one at a time; interruptions and side conversations are distracting and disrespectful to the speaker. "Caucus" or private conversations between members of the audience and people at the table may take place during breaks or at lunch, not during the work of the group.
4. Be concise and try to speak only once on a particular issue, unless you have new or different information to share.
5. Simply note your agreement with what someone else has said if you feel that it is important to do so; it is not necessary to repeat it.
6. If you miss a meeting, get up to speed before the next one, as the TAC cannot afford the luxury of starting over.
7. Focus on the issue, not the speaker – personalizing makes it impossible to listen effectively.
8. Present options for solutions at the same time you present the problems you see.
9. Review materials to be discussed prior to meetings so you are prepared to participate in the discussion. Do not assume that the RAP will revisit issues previously discussed at later meetings.
10. Stay positive; despairing of the group's inability to reach agreement will almost certainly make it so.
11. Refrain from emailing other members of the TAC, as this could be considered a meeting of TAC members. Emailing one on one, does not constitute a meeting of the TAC members.

Regulatory Process for VPA General Permit Regulations

Betsy reviewed the regulatory process and explained where we are in the process for this regulatory action. She explained that the process began with the Notice of Intended Regulatory Action (NOIRA). The input of the public through a 30 day comment period including the

formation of a Technical Advisory Committee. The next stage is to develop proposed regulation language that will be presented to the State Water Control Board (SWCB) for approval. Following this approval, the proposed language will then be published with a 60 day comment period along with at least one public hearing. The final stage is the final regulation language is presented to the SWCB for approval. The final language is then published in the VA Register, the regulation becomes effective at least 30 days after the publication in the Register.

In response to a request from a TAC member, Betsy agreed to provide a copy of the PowerPoint presentations to TAC members following the meeting.

Betsy noted that the goal for number of TAC meetings will be three (3), with room for an additional meeting as necessary. The goal for completing the process will be bringing final regulatory language for consideration by the SWCB at the June 2020 meeting, and wrapping up TAC meetings by the end of calendar 2019.

Summary of the Notice of Intended Regulatory Action (NOIRA)

Betsy provided a summary of the NOIRA. The NOIRA was published on October 1, 2018 and included a thirty day comment period that ended on October 31, 2018. The purpose of the regulatory action is to Reissue and amend, if necessary, the regulation and general permit in order to continue coverage of the permit term for another 10 year period for the nearly 950 poultry operations.

The Agency formed the Technical Advisory Committee to assist in the development of proposed regulations.

- Committee is made up of 17 members:
 - (1) DEQ Committee Lead
 - (4) Agricultural Organizations
 - (2) Integrators
 - (4) Farmers/ Broker/Hauler (entities affected by the regulation)
 - (2) Other Government Entities
 - (2) Environmental Organizations
 - And technical support staff to the TAC from Other State Agencies
 - DCR
 - VDACS

Betsy provided a summary of the comments received during the comment period for the NOIRA:

- A total of 9 commenters submitted comments.
- Comments fell into three categories:
 - Requests to be on the TAC
 - Support of the regulation as already written
 - Support to increase requirements to ensure nitrogen offsets from increases in poultry production and include air quality requirements

Betsy noted that a copy of all of the comments were provided to the Committee members via email. Copies were also handed out to the TAC members at the meeting.

Summary of the Existing VPA Regulation and General Permit for Poultry Waste Management

Betsy summarized the history of the statutory and regulatory actions including the regulatory actions completed in 2009-2010 for the existing VPA Regulation and General Permit for Poultry Waste Management. Betsy detailed the amendments to the regulation and general permit related to the end-use of poultry waste, which became effective in 2010.

Betsy reviewed the existing requirements of the regulation and general permit for all entities that are subject to the requirements.

Summary of the VPDES Construction General Permit as it relates to the VPA General Permits

Melanie Davenport, the Director of the Water Division at DEQ delivered a summary of the VPDES Construction Permit and the requirements.

All regulated land-disturbing activities greater than or equal to one (1) acre or less than one (1) and part of a larger common plan of development must obtain coverage under the Construction General Permit prior to land disturbance. In order to obtain permit coverage the project owner or operator must prepare a Stormwater Pollution Prevention Plan that includes a Virginia Erosion and Sediment Control Program authority-approved Erosion & Sediment Control Plan and a Virginia Stormwater Management Program authority-approved Stormwater Management Plan. The Stormwater Management Plan addresses post-construction water quantity and water quality concerns as a result of changes in land use. The best management practices employed for post-construction stormwater management are generally separate and distinct from those employed for poultry waste management.

Meeting Break - 10 minutes – reconvened @ 10:40A

Summary of the VPDES Concentrated Animal Feeding Operations (CAFOs) Permit Program

Betsy summarized the content and requirements of the VPDES CAFO regulation, including:

- definitions of AFO and categories of CAFOs for poultry operations;
- process wastewater;
- Small CAFO definition and note that there are no Small CAFOs designated in Virginia
- In response to a comment, Betsy emphasized that just because a facility is defined as a Large CAFO, it can still be covered by a VPA permit if it does not discharge.
- the numbers of livestock and poultry operations covered by VPA and VPDES permits, emphasizing that the majority of the DEQ program is a no-discharge program;
- the duty to apply for the VPDES CAFO permit;
- differences between VPA and VPDES permits;
- specific requirements of individual CAFO permits issued by DEQ;
- recordkeeping requirements, including note regarding federal requirement for annual reporting;
- Betsy emphasized that DEQ derived a number of the requirements in the VPDES permits from the VPA general permit regulations that cover livestock and poultry operations;
- Compliance assurance procedures, including content of inspections

Topics for Future Meetings

Betsy opened the floor to discuss topics that the TAC members would like to discuss at future meetings.

1. *Joe Wood* - Chesapeake Bay Watershed Implementation Plan (WIP)
 - Consistency and goals
 - Nutrient loads
 - Growth-offset
 - **R**= Tracking of manure
 - *****= DEQ Presentation on WIP goals
2. *Hobey Bauhan* - *****= Credit in Bay Model for transfer data
 - accounting –way to do it
 - Burden on regulated entities
3. *Philip Musegaas* – **R**= Recordkeeping and reporting requirements to help with the goal
4. *Joe Wood* – **R**= Discuss DEQ monitoring during inspections
 - *****= Review of aggregate data, inspections, compliance & enforcement items from inspections
 - Evaluating the impact
 - Gaps in Data
5. *Holly Porter* – **R** *****= Updated science related to manure uncovered for more than 14 days.
6. *Hobey-Bauhan* - **R** *****= Look at the requirements versus in other states such as North Carolina, Delaware, & Maryland
7. *Tony Banks* – Look at technologies with different crops
 - Example-Corn yields going up and the nutrient needs would need to increase

Seth Mullins- noted that the nutrient needs in the NMP come from the Standards and Criteria are changes that come from DCR

Michael Thompson- commented that there have been many changes (increases) in the last 10 years
8. *Hobey Bauhan* – **R**= Poultry Litter Fact Sheet – look at land application spreading schedule, flexibility on the timing to spread, arbitrary months to spread
 - *Betsy Bowles* offered that the spreading schedule in the Poultry Litter Fact Sheet is not currently in line with the most recent changes to the DCR regulations (amended in 2014). Through this regulatory process and working with DCR we will achieve consistency with the DCR regulations to provide flexibility in the spreading schedule.
9. *Hobey Bauhan* – Litter generation
 - Turkey Litter Study – over estimated the turkey litter produced was significant compared to the assumptions used in the Bay Model
 - *****= Suggested Mark Dubin could present the findings of the study
10. *Jacki Easter* – Litter amendments- look at data on how it is taken up in the soil and the plant
 - Farmers generally take more soil samples than required by the NMP and they also take plant tissue samples

James Riddell – stated that not all soil samples are sent to VA Tech’s soil analysis lab, that there are numerous other labs that are used by VA farmers.

Tony Banks – stated that there has been great strides by the poultry companies to increase in the efficient utilization of the nutrients from the feed.

11. *Holly Porter* – **R=** Practices in general have changed over the years related to management practices used for the litter, how often full clean outs are done versus windrowing, crust outs, etc.
12. *Neil Zahradka* – mentioned implementation of nutrient management plan practices
 - End-User with NMPs, how does VA get credit in the model
 - How do we get the information that someone is implementing BMPs so that we can get credit in the Bay Model, for WIP where are certain practices are being implemented (**R=** end-user recordkeeping/reporting)

Hobey Bauhan – Is all farm land required to have an NMP, how can they monitor, does Maryland get credit in model for the NMPs

Jacki Easter – asked what is Maryland's definition of farm land

Holly Porter – 10 acres or more or 7 animal units are required to have an NMP, they have annual implementation reports (Maryland requirement)

Hobey Bauhan – Feel that a good bit of the litter is being applied under an NMP, but we are not capturing it

Jacki Easter – as a broker- 99% of the litter that they move is going to someone that has an NMP, economics plays a role in implementation – 40 years ago chicken litter was chicken waste, today poultry litter has an economic value and has a price tag because it has a nutrient value. People are not buying twice or paying twice what they need, they are not

Michael Thompson – crop farming these days do not allow for overapplying. Crops are genetically modified to take up the nutrients. As a producer, I cannot over apply the nutrients because it is not business sense to do so.

13. *James Riddell* – asked Seth Mullins about where DCR is in the process to have a verification process. We want credit in the model.

Seth Mullins – only DCR planners are verifying DCR NM planners, need to verify 10 percent of the total plan acreage

Kevin Dunn – Cost-Share verifying NMP and other BMPs

Neil Zahradka – DEQ will verify the NMP through inspections

James Riddell – future NMPs especially related to cost-share will be verified, will capture the information

Neil Zahradka – currently we are not getting practices reported

Betsy Bowles – reiterated that end-users must document land application records, transfer records to include where the waste is stored and how it is used and how the end-user determines the land application rate. DEQ staff retrieves transfer data from the grower.

The group discussed about the above mentioned topics during this segment of the meeting.

Betsy Bowles will bring the first drafting of the proposed changes to the regulations to include the necessary changes to the regulations such as dates of the permit term and a few changes that are necessary, as well as drafting the revised spreading schedule for the Poultry Litter Fact Sheet. The draft language will be sent to the TAC members well in advance of the next meeting.

Joe Wood mentioned that he would like to speak on the topics that he brought up.

The above topics were categorized as follows: *=informational purposes, R=Related to the Regulation.

To conclude, if the TAC members have something to share with the group, send it to Betsy Bowles and she will distribute the information to the TAC members.

Action Items:

1. Betsy will arrange to have someone come and speak to the TAC members, at the next scheduled meeting, about the Watershed Implementation Plan, credit in the Bay model, verification of Best Management Practices, etc.
2. Betsy will gather and provide to the TAC members, Alternates and Interested Parties - Inspection and Compliance Data:
 - a. number of inspections in last 3-5 years
 - b. Compliance and non-compliance information from the inspections
 - c. General list of items that are observed, collected and recorded during an inspection.
3. Betsy will provide to the TAC members, Alternates and Interested Parties – a first draft of amendments to the Regulation language.
4. Betsy will obtain the study related to 14-day cover of poultry waste and provide it to the TAC members, Alternates and Interested Parties.
5. Betsy will summarize and provide to the TAC members, Alternates and Interested Parties – Summary of requirements of other states such as North Carolina, Delaware, & Maryland (Holly Porter offered to assist with two of the three states)

Public Participation

No comments were offered.

Set Next Meeting Dates (Future Meeting Locations TBD)

Betsy Bowles suggested that the next meeting date could be determined by using the Doodle Poll again. Betsy Bowles will set up and circulate another Doodle Poll to set the date for the next meeting. Once a next meeting date is determined, a location will be determined.

Adjourn

Betsy Bowles thanked everyone for his or her time and participation and adjourned the meeting at 12:41 PM.