



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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**SUBJECT:** 1st Technical Advisory Committee (TAC) Meeting  
9VAC25-151, General VPDES Permit for Discharges of Storm Water Associated  
With Industrial Activity (VAR05)

**TO:** TAC Members

**FROM:** Burt Tuxford, Office of VPDES Permits

**DATE:** March 11, 2013

The first TAC meeting for the reissuance of the General VPDES Permit for Discharges of Storm Water Associated With Industrial Activity (VAR05) was held on Friday, March 1, 2013, from 9:00am to 4:00pm at the DEQ Piedmont Regional Office in Glen Allen, Virginia. The following people attended the meeting:

**TAC Members:** Ian Whitlock (Joyce Engineering), Andy Kassoﬀ (EEE Consulting), Lisa Ochsenhirt (AquaLaw PLC - representing VAMWA), Cary Lester (Steel Dynamics), Michael James (James Environmental Management), Rick Woolard (Dominion Resources), Sam Hollins (Virginia Transportation Construction Alliance), Mark Davis (Altria Client Services - representing VMA), John Fowler (Chesapeake Bay Foundation), Karl Mertig (Kimley-Horn and Associates), Charlene Harper (Geosyntec Consultants), Chris French (Filterra Bioretention Systems), Dale Bennett (Virginia Trucking Association), Burt Tuxford, DEQ CO, Fred Cunningham, DEQ CO, Elleanore Daub, DEQ CO

**DEQ Support Staff:** Susan Mackert, NVRO, Tammy Cohen, PRO, Deanna Austin, TRO, Loan Pham, TRO, Steve Long, TRO, Linda Shultz, CO, Mark Trent, SWRO (via phone), Bill Maddox, VRO (via phone), Jerome Brooks, CO (via phone)

**Additional Attendees:** John Roland (representing VA Asphalt Assn.), Tom Foley (Vulcan Materials), Mark Williams (Luck Stone), Jamie Brunkow (James River Association), Thornton Newlon (Virginia Coal Association), Kelly Boyle (Joseph Smith & Sons), Sarah Cosby (Dominion Resources)

Items presented for information and discussion prior to the meeting were:

- Meeting Agenda
- 9VAC25-151 NOIRA Comments Received; "The Role of the TAC" document; List of TAC Members
- Preliminary Draft Regulation with initial proposed changes - 9VAC25-151, General VPDES Permit for Discharges of Storm Water Associated With Industrial Activity.

The TAC discussed the preliminary draft changes to the general permit (GP) regulation that were based on "standard" language being added to all general permits as they are reissued, and then the specific topics for discussion that were listed in the Agenda (see attachment #1).

### **Discussion on Preliminary Draft Changes**

The current ISWGP is based primarily on EPA's 2006 draft MSGP, with some of the EPA 2008 final MSGP provisions included. Staff will identify changes needed to the SWPPP and Sector Specific SWPPP Requirements sections to conform to EPA's 2008 final MSGP. EPA is working on the 2013 MSGP reissuance draft, but we have not seen anything from them on this yet. We specifically need to see how they are incorporating the new Airport Deicing ELG into their permit for Sector S.

#### **9VAC25-151-10 (Definitions)**

Modified the definitions of "BMP", "co-located industrial activity" and "storm water discharge associated with industrial activity" to be consistent with EPA's 2008 MSGP definitions.

Deleted the definitions for "large and medium MS4", "small MS4" and "section 313 water priority chemicals" because they are not used in the regulation or general permit.

Added definitions of "minimize" and "primary industrial activity" from EPA's 2008 MSGP, and defined what "MS4" stands for.

**TAC suggestions/comments:** TAC suggested changing "inactive landfill" to "closed landfill" because there are actually no inactive landfills, only open or closed landfills. Further discussion pointed out that "closed" and "inactive" are not the same thing. We may need definitions for both in the regulation. TAC suggested adding a definition for "open dumps" (later discussion of the Landfills Sector revealed that the definition is already in that section). Delete the reference to DCR in the "landfills" category of the "industrial activity" definition (and any other references to DCR in the regulation - - just keep the VSMP references). TAC suggested adding a definition of "measurable storm event" to this section. DCR construction GP defines MSE as 1/4" of rainfall. We should use the EPA MSGP definition, which is a "runoff producing event".

**9VAC25-151-15 (Applicability of incorporated references based on the dates that they became effective)**. Added this section to define the applicable date of EPA 40 CFR references used in the regulation. This is being added to all GPs as they are reissued.

**9VAC25-151-20 (Purpose)**. Modified this section to more clearly define exactly what industrial activities this general permit governs. Added that the regulation also governs storm water discharges designated by the Board for permitting under the provisions of 9VAC25-31-120 A 1 c, or under 9VAC25-31-120 A 7 a (1) or (2) of the VPDES Permit Regulation.

**9VAC25-151-40 (Effective Date of the Permit)**. Changed the effective and expiration dates to reflect the dates for this reissuance.

#### **9VAC25-151-50 (Authorization to Discharge)**

Added an eligibility statement to the beginning of subsection A, similar to what EPA has in their 2008 MSGP. Basically an owner must (1) have a stormwater discharge associated with industrial activity from the facility's primary industrial activity, provided the primary industrial activity is included in Table 50-2 of the regulation, or (2) be notified that discharges from the facility have been designated by the Board for permitting.

Reorganized and rewrote the remainder of the section to conform to the way we are including this section in all GPs. Sections A and B are the "standard" sections; section C is new and

includes the specific requirements relative to authorization from the previous regulation; section D is the "no-exposure" condition, rewritten to incorporate the revised language from EPA's 2008 MSGP; section E is the owners responsibility to comply with other applicable statute, ordinance or regulation; and, section F is a new section on Continuation of Permit Coverage that we are adding to all GPs as they are reissued. This allows the permittee to continue to discharge legally under the old GP until the Board issues them coverage under the new GP, provided they submit a complete registration statement prior to the expiration of the old GP.

**TAC suggestions:** In the "Authorized non-storm water discharges" listing, add a definition for "contaminated" (or "uncontaminated"). A suggestion was also made to add "Untreated raw water" to the list of authorized non-storm water discharges. This list is EPA's "standard" list of non-storm water discharges, and they don't like to add or delete items. We will look into adding this one. In the "construction activity discharges" limit on coverage, the TAC suggested we delete the reference to DCR.

#### 9VAC25-151-60 (Registration Statement)

Reorganized and rewrote this section to be consistent with the way we are including this in all GPs now. Broke the SWPPP requirements out into a separate section.

**TAC Suggestions/Comments:** Having the SWPPP prepared/updated prior to submittal of the Registration Statement (RS) is problematic. Many (most?) existing permittees will not have the new permit SWPPP requirements until we send them the permit. Would be more useful to give them a specific SWPPP update deadline in the permit. New facilities, such as auto salvage yards and junkyards, need to get our permit before they can renew their license with DMV. While we can grant them an extension of the time for SWPPP development/implementation requirement, it would be more useful to give them a specific deadline in the permit that applies after we issue them coverage. DEQ should check for the SWPPP and the updated requirements through the routine facility inspection, and take this out of the RS requirements.

Staff discussed the possibility of allowing the RSs and DMRs to be submitted electronically. We are currently looking into this. The RS and DMRs with the original signature would have to be kept on-site with the SWPPP.

#### Registration statement contents.

(1) Under the "name, mailing address,..." section, deleted the third category (responsible party requesting permit coverage) item. We will put a checkbox on the form for the applicant to indicate if the facility owner or site operator will receive the permit. TAC had no problem with this proposal.

(2) Deleted the facility ownership status, which is not used for anything. Replaced it with "nature of business" question.

(3) **TAC question/discussion:** Do we need to add a question and checkbox for the SWPPP development/update similar to what we had in the 2004 GP? See the discussion above.

(4) Modified the MS4 discharge question to include the notification requirement that we are including in all GPs now. **TAC suggestions/comments/questions:** How does the permittee know they are discharging to an MS4? Need an explanation of MS4 in the instructions. Do we hold up issuance/reissuance if they don't notify us? For new permittees, they will not have the GP registration number when they submit the RS. Federal storm water regulation say that they must notify the MS4 operator of the industrial activity discharge. We will look at this further in more detail.

(5) General location map and SWPPP site map. DEQ needs the outfalls and sectors identified when an owner applies so we can send them the proper permit pages and DMRs. We also need good facility information for the Chesapeake Bay TMDL input. Right now, the site maps submitted range from very good to totally of no use. **TAC comments/suggestions:** We could add a table to the question and ask for the outfalls, site area and the impervious area to be listed (do we need industrial activity area?). There is a timing issue with having the permittee submit with the RS the site map that the permit requires to be developed. As mentioned above, many permittees may not have the new SWPPP requirements needed to update their map until we send them the new permit.

Posting Registration Statements to DEQ's Web Site. Currently we post all registration statements we receive to the DEQ web page for a 30-day public comment period prior to issuing permit coverage. Of the 1350 currently permitted facilities, we have received only one comment during the comment period, and that comment was not relevant (person just didn't want them to be permitted). TAC agreed that we should take this posting requirement out of the regulation. Staff will check with EPA to be sure it's OK to remove this.

#### 9VAC25-151-65 (Termination of Permit Coverage)

Modified this slightly to reflect the way this is now included in all GPs being reissued.

#### 9VAC25-151-70 (ISWGP) - Part II (Conditions Applicable to All Permits)

Part II A 4 (Monitoring). Added the clarification that samples taken as required by the permit must be analyzed in accordance with the VELAP lab certification/accreditation regulation requirements.

Part II I (Reports of Noncompliance). Added the web address for reporting noncompliance to DEQ online.

Part II M (Duty to Reapply). Changed the time period from 90 days to 60 days to be consistent with the requirements in the Registration Statement section requirements.

Part II Y (Transfer of Permits). Modified this section to reflect the way this is now being included in all GPs that we are reissuing.

#### **Discussion on Specific Agenda Topics**

1. Monitoring periods. Currently the permit has both semi-annual (TMDL) and annual (benchmark, effluent limits, and impaired waters) monitoring. Staff suggested changing the monitoring period to Semi-Annual for all monitoring types.

There was much discussion by the TAC on this - mostly against increasing the frequency. **TAC questions/comments/suggestions:** What are we going to do with the data? Many facilities are not sampling or turning in DMRs, with no apparent consequences. DEQ needs to take enforcement action against facilities that don't do their required sampling. Staff will examine this more and get back to the TAC.

2. Representative sampling (benchmark and quarterly visual monitoring). Staff suggested requiring these outfalls to be identified up front and approved as part of the registration. We are currently requiring this for the Non-Metallic Mineral Mining GP and the Concrete Products GP. **TAC questions/comments/suggestions:** TAC was, for the most part, against this proposal. The current process is working fine, and requiring this up front with the RSs, based on the LARGE number of registrations we will receive, will slow the reissuance process down tremendously. It was suggested that compliance staff should look at "representativeness" during inspections, and

not put this on the permit writers. The TAC also suggested that we consolidate the representative sampling into one place in the permit (not three as it is now).

3. Corrective Action follow-up monitoring. Staff suggested dropping the follow-up monitoring and requiring the exceedance report immediately upon exceeding a benchmark value, a TMDL WLA number or an Effluent Limitation value. Follow-up monitoring is hard to track at DEQ - - administratively this is so complicated. Some on the TAC favored continuing follow-up monitoring, but most were OK with the proposal.

3a. Benchmark monitoring DMRs. A side issue regarding Benchmark Monitoring DMRs was also discussed by the TAC. Benchmark DMRs are now due by Jan 10<sup>th</sup> each year. It was suggested that we ask permittees to submit the DMR data sooner, say by the 10<sup>th</sup> of the month following monitoring, but no later than Jan 10<sup>th</sup>, so that we know about a problem as quickly as we can. However, this creates a large tracking problem for DEQ. Another suggestion was to have the permittee notify DEQ that a benchmark was exceeded upon receipt of the exceedance data from the lab.

4. Chesapeake Bay TMDL monitoring for TN, TP and TSS. Staff discussed the need for all ISWGP permittees in the Chesapeake Bay watershed to monitor for TN, TP and TSS. This is needed to characterize the load inputs from facilities in the different industrial sectors in the permit. There was much discussion on how much data we would need and how often they should sample each year. The CB WIP has a 2017 milestone date, so we need to have data from all sectors prior to that date. A suggestion was made to require the CB TMDL sampling in the first two years after the permit reissuance, and sample 4 or 6 or 8 times. Could be a special condition in the permit. Staff will get back to the TAC with a proposal.

5. Landfill (Sector L). Staff suggested that changes are needed to fix conflicting requirements and to conform with Waste Permitting requirements. The EPA definitions for contaminated storm water, landfill wastewater, and leachate seem to conflict with each other. Some TAC members have difficulty distinguishing between leachate and contaminated storm water, and when the runoff is regulated under water permits or under waste permitting requirements. CO water staff will meet with CO waste permitting staff and discuss changes that will help fix the conflicts in this sector.

6. Inactive and unstaffed sites. Staff suggested expanding this allowance to all the monitoring types. We propose to reword this similarly to the way it is now worded in the Concrete Products GP. The TAC was OK with this proposal.

7. Open discussion on things that need fixing or that don't work as they should.

- Quarterly Visual Monitoring: One TAC member suggested that permittees should be able to conduct visual examinations at any time, not just during daylight hours. The TAC agreed this should be changed.
- TPH monitoring: It was suggested that we remove the specific method references for analyzing TPH, and just require the permittee to use VELAP a approved method.
- Dust suppression water: It was suggested that we allow this in the permit as a special condition, similar to the wording in the Concrete Products GP.
- Chesapeake Bay WIP - 5% reduction requirement - does this apply to the ISWGP permittees? Should Effluent Limitations in the GP be reduced by 5% to meet CB WIP goals? Staff will discuss this with the TMDL folks and get back to the TAC.

- Sectors Q and R: The sampling requirements for these two sectors are not consistent. Can we make sectors Q and R the same, but remove Al and Fe, and require Cu for both? Also, add TSS to sector Q.
- Sector N - Source Separated Materials (Plastics, Aluminum, Other Metals). DEQ TRO will send an email outlining the changes they would like to see for this sector. We will share this with the TAC.
- Sector T: It was questioned if we still need this sector in the permit. We will look into this further and get back to the TAC.

### **Next Meeting**

The next TAC meeting was scheduled for the week of March 25th from 9:00am to 4:00pm at the Piedmont Regional Office in Glen Allen, in the Training Room. Following the meeting, the date was set at March 27<sup>th</sup>.

VPDES GP FOR INDUSTRIAL ACTIVITY STORM WATER DISCHARGES (VAR05)

1st TAC Meeting - March 1, 2013

AGENDA

1. Introductions
2. Regulatory Process and Timetable for Reissuing the GP Regulation
  - Role of the TAC
  - NOIRA Comments
3. Discussion of Proposed Changes
  - Changes Needed Based on EPA's 2008 final MSGP
  - Preliminary Draft Changes Based on "Standard" GP Regulation Language
  - Specific Topics For TAC Discussion:
    1. Monitoring periods - Currently both semi-annual (TMDL) and annual (benchmark, effluent limits, and impaired waters). Discuss changing to Semi-Annual for all monitoring types.
    2. Representative sampling (benchmark and quarterly visual) - discuss requiring these outfalls to be identified up front and approved as part of the registration.
    3. Corrective Action follow-up monitoring. Discuss dropping this and requiring the exceedance report immediately upon exceeding a TMDL or Effluent Limit.
    4. Chesapeake Bay TMDL monitoring for TN, TP and TSS.
    5. Landfill (Sector L) changes needed to fix the conflicting requirements and conform with the Waste Permitting requirements.
    6. Inactive and unstaffed sites - discuss expanding this for all monitoring types.
    7. Open discussion on things that need fixing or that don't work as they should.
4. Follow-up Actions and Next Meeting