

**DRAFT Minutes**

**2024 Stormwater Construction General Permit Reissuance  
Technical Advisory Committee (TAC) Meeting #4**

**Tuesday, April 4, 2023**

**PRO Training Room (Room 1111)  
DEQ Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060**

**Start – 9:30 AM**

**Attendees:**

- TAC Members
  - Andrew Clark, Home Builders Association of Virginia
  - Taylor Goodman, Balzer and Associates, Inc.
  - Josh Krolewski, Bay Companies, Inc.
  - John Burke, Montgomery County
  - Jill Sunderland, Hampton Roads Planning District Commission
  - Scott Dunn, Chesterfield County
  - Jacob Bauckman, VDOT
  - Holly Sepety, VDOT
  - Michael Cartwright, VDOT
  - Randy Hardman, Hanover County
  - Olivia Bryan, Frederick County
  - Dawson Garrod, University of Virginia
  - Phil Abraham, Virginia Association for Commercial Real Estate
  - Patrick Fanning, Chesapeake Bay Foundation
- Public
  - Sara Fila, Legacy Engineering
  - Corienne Hutchenson, Compliance Pros
- DEQ Staff
  - Melanie Davenport
  - Scott Morris
  - Rebecca Rochet
  - Scott Van Der Hyde
  - Matthew Stafford
  - Melissa MacIntyre
  - Mark Remsberg
  - Zack Robinson

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**Welcome and Introductions:** Melanie Davenport, DEQ

- Melanie Davenport welcomed everyone, provided an overview of the areas of focus for this meeting, and reminded the TAC that this is the final meeting before DEQ presents the proposed permit to the State Water Control Board at their meeting on June 22, 2023.

**Guidelines for RAP Discussion:** Scott Van Der Hyde, DEQ

- Scott Van Der Hyde reviewed the rules and guidelines for conduct and discussion during the TAC meeting.

**Discussion of Construction General Permit Revisions**

Melanie Davenport facilitated a discussion with the TAC about the changes that DEQ is considering for the General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities, 9VAC25-880 (Stormwater Construction General Permit or “CGP”). DEQ’s changes to the CGP are based on EPA’s 2022 Construction General Permit (effective February 17, 2022, the “2022 EPA permit”), comments DEQ received in response to the Notice of Intended Regulatory Action (published March 28, 2022).

A summary of the discussion follows:

- **9VAC25-880-70. General Permit:**
  - Part II B 8. (SWPPP requirements for construction dewatering discharges to sediment impaired or exceptional waters.)
    - EPA’s 2022 CGP includes requirements for controlling dewatering discharges through setting a turbidity benchmark and requiring regular testing and adding controls to meet the benchmark. This has generated a lot of discussion among TAC members at previous meetings. DEQ has considered several options on how to address the new EPA requirement. There is some flexibility on how we address this, but ultimately EPA will have to sign off on whatever approach we take.
    - DEQ’s proposed approach sets a 100 mg/l TSS benchmark, which is used in our industrial and non-metallic mineral mining permits. This approach requires a sample to be taken and sent to a lab for testing. If testing meets the benchmark, no additional testing is required at that discharge location, but visual monitoring is required to ensure there is no change in the discharge. If the test does not meet the benchmark, additional controls, repairs, or maintenance should be used to achieve the benchmark.
    - TAC discussion
      - One key focus of the discussion was attempting to ensure that requirements are right sized to the type of dewatering that is being done. There is a desire to capture a differentiation between a rainstorm requiring a single, short-term dewatering activity from a housing footer versus the continuous dewatering activity that may be necessary on construction sites where there is groundwater intrusion.
        - Options proposed to address this included basing the requirement on the total volume of water being pumped out, duration of the dewatering, rate of dewatering, or differentiating between one time, multiple, or continuous dewatering activities.
        - A suggestion was made to allow for a technology-based standard at smaller sites but requiring testing where larger scale dewatering is necessary.

- DEQ agreed to look at options for how we can address this scale issue.
- The TAC discussed whether a TSS measurement is the most appropriate for setting the dewatering benchmark.
  - The TAC raised concerns around the delay in receiving lab results on a TSS sample and issues with finding a lab near a construction site.
  - The TAC's preferred measurement for setting the benchmark is a turbidity measurement. This allows for instantaneous readings in the field and does not require sending a sample to a lab.
  - DEQ agreed to update the proposed language to use a turbidity benchmark rather than a TSS benchmark.
  - In addition, DEQ will examine what is the appropriate number at which to set the turbidity benchmark.
- The TAC suggested adding a definition for "construction dewatering." VDOT proposed language based on EPA's dewatering definition.
  - The proposed definition includes a list of activities that are not included in the definition of "construction dewatering." One suggestion was to change this list to specifically exclude stream pump arounds. This would help avoid accidentally leaving out a type of dewatering that we hope to capture.
- The TAC raised a question about what type of documentation will be required for documenting each construction dewatering discharge in the SWPPP.
  - DEQ's purpose is to ensure documentation of the points of discharge to provide those locations for inspection and to ensure that these discharge points are being regularly monitored.
- Alternative approach to DEQ's proposal
  - Some TAC members were supportive of allowing the use of secondary control measures (i.e. flocculants, silt fence, straw bales) as an alternative to the turbidity benchmark.
    - The argument for this approach is that it is simple to understand, and requires a secondary control from the outset.
    - DEQ's primary concerns with this approach is the lack of testing to verify the efficacy of the secondary controls, the lack of data collection to help with developing future standards, and the potential expense of requiring secondary controls in situations where they may not be necessary.
  - Ultimately, a decision was reached to use an approach that allows operators to do the turbidity testing OR use secondary controls that achieve a certain efficiency for controlling turbidity and TSS and take a turbidity sample at the point of discharge and document that data for future use.
- TAC members requested adding language for an exception if an operator can demonstrate that all feasible control measures have been

used but cannot meet the benchmark. DEQ will explore adding this type of exception to the proposed permit.

- Part II H 2. (Corrective actions for construction dewatering discharge)
  - The TAC commented on the need to retest a discharge point after a corrective action has been taken to ensure that it was effective. DEQ will add language to address this comment.
- Part II F 2. (SWPPP implementation)
  - Discussion around timeline for undertaking routine maintenance. There was a proposal to change “close of the next business day” to “no later than five business days.” This would leave this timeline the same as it has been in Virginia’s current CGP. TAC members that “close of the next business day” would not leave enough time to perform maintenance and would lead to constant requests for extensions from local authorities.
  - DEQ will change this requirement back to “no later than five business days.”
- Part II G 3. (Inspection requirements)
  - TAC requested a change to the current language that would only require documentation at discharge locations when it appears that pollutants are being discharged.
  - DEQ will look at adding this qualifier.
- Part II G 4. (Inspection reports)
  - TAC requested a change to the current language that would only require documentation at discharge locations when it appears that pollutants are being discharged.
  - DEQ will look at adding this qualifier.
- **9VAC25-880-1. Definitions.**
  - “Qualified personnel”
    - DEQ is proposing inserting this definition to address EPA’s new “stormwater team” requirement.
      - DEQ’s current proposal attempts to expand ways to become a qualified personnel under the definition by allowing for equivalent certifications provided by EPA in addition to DEQ’s erosion and sediment control and stormwater measurement.
      - Some stormwater and erosion and sediment control certifications do not require sitting through the training course if you can demonstrate hours of practice and can pass the certification exam. The TAC requested that language be added to account for these situations.
      - DEQ’s training division is also looking at creating a CGP qualified personnel certification course that pulls together elements of other DEQ trainings. This would be offered completely online. This will take time to create, but will provide an easily accessible option.
      - VDOT is sending their training to DEQ to assess and potentially add to the definition as an option.
  - “Measurable storm event”
    - EPA’s 2022 CGP adds snowfall to the definition of measurable storm event. This has generated discussion at several TAC meetings. DEQ’s latest proposal attempts to address the reality that runoff is created by the rate of melt rather than the amount of snow that fell by saying that any snow melt that creates

runoff should be considered a measurable storm event. The TAC prefers the 3.25 inches of snowfall measurement in EPA's definition because it creates a clear indication of when a site needs to be checked. DEQ will add the snowfall measurement back into the definition.

- **9VAC25-880-30. Authorization to discharge.**
  - List of authorized nonstormwater discharges:
    - VDOT proposed adding “uncontaminated vacuum truck decanting” to this list.
    - The TAC felt that this water needs to be treated before leaving the site. Uncontaminated vacuum truck decanting will not be added to this list.
- **9VAC25-880-60. Termination of general permit coverage.**
  - Notice of Termination
    - VDOT wanted language inserted that if the department does not notify the permittee within 90 days of receiving the NOT, then the NOT will be deemed accepted”
    - Staff feels that the language already expresses this clearly.
- **Consistency with the consolidated Virginia Erosion and Stormwater Management Regulation (Chapter 875).**
  - TAC members raised the need to add “or the department” where we discuss VESMPs.
  - DEQ will address this throughout the permit.

#### **Public Forum**

- Members of the public were given an opportunity to provide comment on the draft permit, but no public comment was given.

#### **Next Steps**

- DEQ will create a final draft of the permit that takes into account the feedback received from the TAC meetings. The draft permit will be presented as a proposed regulation to the State Water Control Board at their next meeting on June 22, 2023.

The meeting ended at 3:42pm.