



*Commonwealth of Virginia*

*VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY*

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**SUBJECT:** Technical Advisory Committee (TAC) Meeting Summary to Discuss the 2022 Reissuance of 9VAC25-193 Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concrete Products Facilities.

**TO:** TAC Members and DEQ Staff (listed below)

**FROM:** Eleanore Daub, Office of VPDES Permits

**DATE:** March 30, 2022

A TAC meeting was held on March 9, 2022 beginning at 10 AM.

TAC members and staff attending the meeting were:

Industry Representation:

Walter Beck, Vulcan Construction Materials

Cliff Bocchicchio, Titan America

Matt DiBella, Greensite Concrete

Tom Foley, Vulcan Materials - Mideast Division

DEQ Staff:

Kevin Crider BRRO, VPDES Permits

Joe Crook CO, Water Permitting

Eleanore Daub, CO, VPDES Permits

Amy Dooley NRO, VPDES Compliance

Drew Hammond CO, Water Permitting

Troy Nipper CO, VPDES Compliance

Brad Ricks PRO, Multi-Media Compliance

Kelli Park VRO, Water Compliance

Matt Stafford CO, VPDES Compliance

Alison Thompson NRO, VPDES Permits

Information provided to the TAC and to staff included:

- Approval of TAC membership from the DEQ Director;
- Role of the TAC;
- Regulations with draft amendments dated March 8, 2022, Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Concrete Products Facilities.

## **Introduction and Background**

DEQ staff acknowledged all present, provided an overview of the purpose of the meeting. Staff provided background on the permit regulation and the schedule of the regulatory action. A [periodic review](#) (NOTE for clarification to the meeting presentation – Periodic Reviews are conducted per [§§ 2.2-4007.1](#) and [2.2-4017](#) of the Code of Virginia) was completed in March 2021. The response to the periodic review was in support of the regulation. Staff then began the rulemaking process in October 2021 and published a Notice of Intended Regulatory Action (NOIRA). Three comments were received for requests to participate on the TAC. All are present here today. Another comment was received (see discussion that follows) from Greensite Concrete Washout. Following the NOIRA, this TAC was approved and the meeting scheduled and published. The group was reminded that this TAC is considered a public entity and any meetings must be published so that the public may attend. The group should refrain from any communication as a group while they remain part of this TAC. Staff is most likely to ask the State Water Control Board for approval of draft amendments for public notice and hearing at their September 2022 quarterly meeting. A public comment period is expected in the October through December 2022 time frame. Final Board approval of the regulation will be soon after that so that the permit will be effective by January 1, 2024. Between adoption and effective date, staff will write and publish guidance (which describes the implementation of the permit and regulation), the registration process will be completed and permit coverage reissued.

## **Discussion of NOIRA Comment (Greensite Concrete Washout)**

The comment was distributed to the group and discussed. The concern is that while regulations exist to monitor concrete washout on construction sites, the enforcement of this code is extremely inconsistent. Examples were discussed and photographs made available that demonstrated how concrete washout pits are too small for the volume of work and overflowing. This overflow is often managed improperly at the construction sites. There are viable alternatives via leak proof steel containers that are managed by the container company where the contaminated water is vacuumed out and the solids can be reduced, recycled and the wastewater properly treated.

The industry responded that they are aware of this situation and this situation presents many challenges for them as well. Ultimately, this is and rightly should be the project owner/general contractor/contractor's responsibility to manage and provide the proper washout facilities for this to occur. This issue is part of the facility's stormwater pollution prevention plan as required by the construction stormwater general permit. As concrete producers, they are required to manage this by installing treatment systems; albeit their situations are generally permanent while the construction sites are temporary. Regardless, the mixer truck's chute must be washed down on site to prevent spillage over the road whether they be local or state highways. The ready-mix producers train their people on this issue and instruct them to call our dispatch office if the contractor is not providing such facilities or if it is not adequate, properly located or safe. Being a customer-driven business sometimes there is a fine line to cross between what we know they should be doing/providing and not upsetting the customer which could result in future lost work. Recently, there seems to be a lot more awareness of this issue and more inspections are needed.

Staff explained that specifications for the wash out pits is defined by EPA and a number of options are listed including these pits with a liner and the steel containers. There are also other entities involved because the VSMP authorities are responsible in some areas.

DEQ staff thinks that this concern needs further attention but better addressed through the General VPDES Permit for Discharges of Stormwater from Construction Activities ([9VAC25-880](#)) and that NOIRA will be published [March 28, 2022](#). These concerns are applicable to that permit and should also be discussed in that TAC. DEQ was interested in pursuing the enforcement issues particularly related to the VDOT projects.

### **Compliance**

Staff noted that compliance issues haven't changed over the years with issues primarily related to failure to submit DMRs and TSS and pH violations.

### **Review and Discussion of Draft Amendments**

A summary of draft regulations amendments for 9VAC25-193 was discussed as follows:

#### Definitions (Section 10)

This section provided definitions for unique key terms found within Chapter 193. The definition for "Department" or DEQ" was removed as the same definition is found within the controlling Code section.

DEQ has become aware of concrete crushing / recyclers that have started operations but are not necessarily at concrete production facilities. There have been complaints of discharge to the storm sewer from these independent operations, particularly in the northern Virginia MS4 area. The concrete general permit does not specifically address this and the Industrial Stormwater VPDES General Permit does not specifically address this either. The industry explained that dealing with leftover concrete is a constant activity at a production site. Many production sites are small and do not have a crusher on site. Temporary crushing operations typically do not want to come to a site with small amounts of concrete to crush. Typically, recycled concrete is used for fill or on roadways. Large leftover forms are difficult to dispose and the crushed concrete is more desirable. It was pointed out that the registration statement addresses methods of treatment and disposal of wastewater and solids.

Currently, DEQ addresses this situation where a discharge from a concrete crushing operation has coverage under the Concrete Products Facilities general permit, then the discharge should be addressed under that general permit. In a situation where a discharge from a concrete crushing operation facility does not have coverage under the Concrete Productions Facilities GP, then the discharge should be addressed under the Industrial Stormwater GP. There are also a few individual permits issued for this activity when it also includes other types of recycling. Consensus was that DEQ's current approach was acceptable and that no further changes were needed to this permit to specifically address this situation.

#### **Authorization to Discharge (Section 50)**

This section allows for any owner governed by this general permit to be authorized to discharge process water, stormwater associated with this industrial activity or commingled discharges of these types to surface waters of the Commonwealth of Virginia. This section requires the Board

to notify an owner that the discharge is not eligible for coverage under this general permit in the event of any of the following four scenarios. The last scenario (B 4) will be modified to read as: ~~The discharge is not consistent with the assumptions and requirements of an approved TMDL.~~ The discharge is not consistent with the assumptions and requirements of an applicable TMDL approved prior to the term of this general permit. This particular language was not in the handout but was added by staff that morning. This is the language used in the construction stormwater general permit. DEQ plans to add the same language to all general permits. It's important to put provide DEQ's intention with TMDL requirements so there are no questions about when TMDL requirements could be imposed or considered for authorization to discharge.

Staff wanted to inform the TAC about upcoming TMDL issues. Most TMDL waste load allocations (WLA) are for sediment and the WLAs were calculated using the existing flows and TSS permit limits; thereby within the assumptions and requirements of the TMDL. Staff concern is for TMDLs where the stressor is not limited or monitored in the permit. There are two total phosphorus TMDLs with aggregate WLAs which lists a few concrete facilities but this has never been brought up by planning staff as needing additional requirements or unable to qualify for coverage under the general permit. This might be an older TMDL where all facilities were included under the aggregate WLA although some may not contain the parameter of concern and have zero WLA. Staff will check on this.

The primary issue is the current development of a total dissolved solids (TDS) TMDL in the northern Virginia area (Sandy Branch). In the past, DEQ has required various actions when a TMDL is being developed. This has included requiring monitoring for the parameter (e.g., as in the Industrial Stormwater VPDES General Permit) or monitoring by each industry (e.g., as PCB monitoring for individual permits) on a volunteer basis. Collecting data makes the WLA more realistic as they are specific to the site or the industry rather than assumptions that the agency may have to use when no data is available. Staff asked what the group thought about requiring monitoring requirements to collect data for the TDS TMDL or only requiring it for certain facilities using a footnote in the limits table. There were concerns that this was a problem currently only identified in one stream and may be better focused where needed rather than imposed on the entire industry. The industry indicated they would prefer to discuss this issue with the trade association regarding things to do to facilitate the collection of data rather than a monitoring requirement in the permit.

### **Registration Statement (Section 60)**

Subsection C 14 will be updated to read "Indicate which stormwater outfalls ~~will be~~ could operate as substantially identical or representative outfalls (if any). ~~For stormwater outfalls that are to be represented by other outfall discharges, provide~~ Provide the following for each..." The question requires information be provided for all possible representative or identical outfalls because the permittee will be able to choose these in e-DMR each monitoring period. Like the individual permits and the industrial stormwater general permit, these can change as long as they've been approved through the registration process. This means that any outfall can serve as representative or identical. All outfalls must be listed in e-DMR but a checkbox would exist for outfalls to indicate which ones were substantially identical. There was some concern about having to submit all DMRs. Staff explained that it should be fairly simple with only a checkbox needed to identify the identical outfalls.

Staff also asked whether a list of treatment chemicals was needed in the registration statement. Most other general permits ask for this information. This was brought up in light of the concern of cationic chemicals in use at some mining sites and that detergents can also be used to wash the concrete trucks. Acid is routinely added to neutralize the typically alkaline discharge. The group discussed that the cationic chemicals were generally not in use at these facilities and detergents and acids were known to be in use and staff probably wouldn't change authorization to discharge because of it. Consensus was that, while reasonable, it was not necessary to add the question about treatment chemicals.

It was asked why the registration needs to be resubmitted if nothing has changed at the site. North Carolina doesn't require a new registration at each reissuance. DMME has a check box if everything remains the same on the site. Another more specific example is why the site map needs to be submitted if nothing has changed at the site. Staff explained that electronic submittal of registrations was under development at DEQ and believes it will be available for this reissuance for concrete. The electronic registration form will initially be populated with existing DEQ CEDS (Comprehensive Environmental Data System) data taken from the active permit record. Any missing data will need to be filled in. That data will be preserved at next reissuance so each reissuance should be easier than the one before. Staff was unsure whether the new electronic registrations would preserve attachments, like site maps or be able to somehow link that to the DEQ ECM (Enterprise Content Management – where DEQ houses documents like permits, letters and registrations). DEQ will consider this concern and explore a few options particularly if e-registration is unavailable (e.g., if it's possible to add a check box if registration information is unchanged). However, staff also believes the electronic registration system will reduce much of this concern as existing CEDS data will populate the form. Existing CEDS data is from the 2018 registration statements.

### **General Permit (Section 70)**

The next discussion centered on Part II (Stormwater Management) concerning Part II A (stormwater monitoring). Questions were raised about the 72 hour preceding event, the purpose of the DMR data and submittal in Part II A 3, how these items are determined or calculated and the use of the phrase “measurable storm event.” The industry pointed out most of this data are estimates, calculations (e.g., how and when to identify the rainfall amount for any storm(s), when to start the 72 hour clock if several storm events close together). Also questioned is why all this information must go with the DMR and not kept with the stormwater pollution prevention plan (SWPPP).

DEQ staff responded that the purpose of the monitoring instructions was to capture the first flush (first 30 minutes of a discharge from the site) on an industrial site that had operated without rain for 72 hours (supposedly testing the control measures to keep pollutants at a minimum). The 72 hours starts again with any new rainstorm that creates a discharge. Realistically, to meet the 72 hour requirement, all that is needed is the date of sampling and the date of the previous rainfall that resulted from a discharge from the site. Most facilities know when a rainfall will cause a discharge to collect a sample. Staff was also concerned that this information is common to the VPDES industrial stormwater general permits, individual permits and the EPA multi-sector general permit. Also, the new e-DMR system was set up to require the information in Part II A 3

(date, duration, rainfall inches of storm event and duration between storm events) for all permits with stormwater requirements.

The industry volunteered to draft new language for this section for DEQ consideration. DEQ will look at other states (e.g., North Carolina) to see what they are asking for regarding rain information and if there are simpler options.

If the concept of a stormwater management structure is added, it should be defined (e.g., structure that has controlled inflow and outflow). Stormwater management structures (i.e., the structures in use at nonmetallic mineral mining sites) are not used at most concrete sites.

Additional clarity is also needed under Part II C 4 as to what qualifies as a measurable storm event and a qualifying storm event. Suggestion to remove the word “qualifying.”

The need to keep records for three years when electronic reporting is coming should be reconsidered in Part II F 6 e.

Clarification and updates were added to Part III I 3 for immediate reporting. Under the new language, immediate reporting that is done after hours must be done using the DEQ pollution response program (PREP) online website.

There are several language changes or clarifications made throughout the regulation to conform to the same language being adopted into other general permit regulations that were not specifically discussed but noted in the handout.

### **Next Steps**

TAC members and staff discussed the possibility of a future TAC meeting. Consensus was that the group will meet again when all the changes (including Part II stormwater management) are drafted.

TAC members expressed an interest in testing DEQs new electronic system pertaining to the usability of the MyDEQ portal. DEQ explained there will also be an external administrator role for the electronic system where rights to access certain areas of the portal (water permitting, air permitting, eDMR, etc...) may be given by an industry representative instead of DEQ which facilitates timely submittal of data. After e-registration is complete, hard copy registration statements will no longer be allowed.

The meeting concluded at 1pm.

Thanks to all the TAC members for their service.

NOTE: Post meeting, DEQ staff was approached to ask whether the quantification levels in Part I B 15 (particularly for TSS) needed to be so low when the limit is so much higher. The limit is 30 but the QL is 1.0, which is hard to meet sometimes. Staff agreed to look into this.