

Solid Waste Management Regulation, 9 VAC 20-81
Amendment 9 Regulatory Advisory Panel (RAP) Meeting No. 2
May 26, 2021
Meeting Notes

Location: electronic meeting via webinar

Start: 1:31 p.m.

End: 3:20 p.m.

Meeting Attendees:

RAP Members present

Raymond McGowan

Betty Myers

Ron Kimble

Paul Mandeville

Michael Lawless

Phillip Musegaas

DEQ Staff Present

Kathryn Perszyk

Geoff Christie

Richard Doucette

Priscilla Rohrer

Marilee Tretina

Melissa Porterfield

I. Agenda Item: Logistics & Introductions

Discussion: Melissa Porterfield had individuals appointed to the Regulatory Advisory Panel introduce themselves. She informed the RAP that the meeting was being audio recorded. Meeting notes will be posted on the Virginia Regulatory Town Hall website. Since this meeting is being held electronically, staff will be using a modified “open chair” concept to allow the public to provide information specific to the topic being addressed through the webinar chat feature.

The goal of this group is to work toward consensus on issues. Consensus is defined as a willingness of each member of the RAP to be able to say that he or she can live with the decisions reached and recommendations made and will not actively work against them outside of the process. DEQ staff need to complete their work on this amendment by August 31, 2021. This amendment needs to be presented to the Waste Management Board for their consideration by October 2021.

II. Agenda Item: Groundwater

Discussion: Geoff Christe provided a general overview of the history of the groundwater monitoring regulatory requirements in Virginia. He then explained to the RAP specific changes the agency plans to make to the groundwater requirements. Specific changes are detailed below.

Monitoring well construction standards (§ 250 A 3.c.) will be revised to require the depth of the screen interval to be sufficient to ensure the screened interval remains completely submerged at all times. This will allow more representative groundwater samples to be collected with the intent of minimizing the amount of re-sampling needing to be conducted.

Monitoring well maintenance requirements (§ 250 A 3.e.) are being specified in the regulation. The regulation already states monitoring wells need to be maintained; however, the additional details eliminate confusion concerning the specific things that should be done to maintain the integrity of the monitoring wells. A member of the RAP suggested the agency include additional language to address the need to maintain accessibility of monitoring wells.

Sample collection (§ 250 A 4.f.) should not be conducted through the use of bailers (unless department permission has been given) since the sampling technology has improved. In a 2019 letter DEQ requested facilities using bailers to update their sampling methods and this change is part of DEQ's efforts to modernize sampling protocols at landfills. The revised regulatory language does allow for the continued use of bailers if approved by the department. A member of the RAP suggested the agency strike the word "dedicated" preceding the word "bailer".

A change is being proposed to the development of site background (§250 B 2.a.(1)(a) and §250 B 2.a.(4)) to include 8 independent samples from each well during the first semi-annual sampling period and to require recalculation of site background data every four years. This change makes the development of background consistent with EPA's current 2009 statistical methodology and federal regulatory language in the Coal Ash Combustion Residuals rule.

Language is also being added to (§250 B 3.b.(1) to allow the addition of a new well to a subset of wells. The language clarifies that the well may be in assessment or detection monitoring based on the results of the first sampling event for the new well.

Reporting requirements (§ 250 E 2.b.(1)(d)) are being revised to clarify that the groundwater flow map submitted must be based on the data that was collected during the associated semi-annual or quarterly sampling period. Groundwater flow maps created for previous sampling events are already part of the facility record with the agency and should not be re-submitted.

The Corrective Action section (§260 D 2.d.(2)) is being modified to allow an environmental covenant approved by the Uniform Environmental Covenants Act regulation (9VAC15-90) to be accepted to establish contaminated groundwater will not be used as a source of drinking water.

Geoff Christe then provided an overview of emerging contaminants. EPA publishes a list of contaminants lacking drinking water standards or advisory limits on a Contaminant Candidate List every 5 years with the last list being published in 2016. The most recent list included the following constituents of highest interest: perfluorooctanesulfonic acid (PFOS);

perfluorooctanoic acid (PFOA); 1,4-dioxane; 1,2,3-trichloropropane; and strontium. Additionally, the Virginia Department of Health, at the direction of the 2020 Virginia General Assembly, is in the process of examining the need to establish state-specific maximum contaminant levels (MCLs) for PFOA, PFOS, and other PFAS. As part of this amendment, DEQ staff are anticipating the need to revise groundwater monitoring requirements in the regulations to address emerging contaminants. This includes referencing contaminants with MCLs established by the Virginia Department of Health regulation, and updating groundwater sampling lists in the regulation to include additional constituents.

Some challenges with emerging contaminants include:

- which monitoring program would be appropriate to sample for emerging contaminants if they become regulated (detection or assessment);
- appropriate and available sampling methodology that meets SW-846 and Virginia Environmental Laboratory Accreditation Program (VELAP) standards;
- costs associated with lab analysis; and
- the ability to test to parts per trillion levels.

RAP members acknowledged there are challenges with these emerging contaminants and the potential regulation of them. This includes costs, how to test, which contaminants to test for (are there companion contaminants for some of the emerging contaminants), which monitoring program to add the constituent to, and the recognition that there are no practical ways to isolate the products containing these emerging contaminants from being placed into a municipal landfill. RAP members were asked to consider these challenges and gather additional feedback or information to provide to agency staff concerning emerging contaminants (and related modifications) to the regulation.