

Virginia Pollution Abatement Regulation and General Permit for Animal Feeding
 Operations and Animal Waste Management
 Technical Advisory Committee Meeting
 June 21, 2023 - 9:30 A.M.
 DEQ-Piedmont Regional Office

Meeting Notes from Technical Advisory Committee Meeting

Meeting Attendees

TAC Members	Representing
Cliff Williamson (alternate for Brad Copenhagen)	Virginia Agribusiness Council
Mark Frondorf	Shenandoah Riverkeeper, Potomac Riverkeeper Network, Waterkeepers Chesapeake and Assateague Coastal Trust
Jeremy Moyer	Oakmulgee Dairy Farm
James E. Riddell	Virginia Cattleman's Association
Stefanie Taillon	Virginia Farm Bureau
Roy Van Der Hyde	Van Der Hyde Dairy
Betsy Bowles	Department of Environmental Quality (DEQ)
Darrell Marshall (technical support)	Virginia Department of Agriculture and Consumer Services (VDACS)
Seth Mullins (technical support)	Department of Conservation and Recreation (DCR)

Others Present	Representing
Tony Banks	Farm Bureau Federation
Anderson Bowles	N/A
Hannah Conner	Center for Biological Diversity
Hunter Landis	DCR

DEQ Staff Present
Nelson Daniel
Rebecca Rochet
Neil Zahradka

Absent TAC Members

TAC Members	Representing
R.O. Britt	Virginia Pork Council
Patrick Fanning	Chesapeake Bay Foundation
Eric Paulson	Virginia State Dairyman's Association
Michael Wright	Oakland Farm

Welcome and Introductions

The meeting was opened at 9:37 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 asked the TAC members and DEQ staff and to introduce themselves. Betsy welcomed everyone and thanked them for spending the day with us. Betsy reviewed the Guidelines for TAC Discussions.

GUIDELINES FOR TAC DISCUSSIONS

- Put 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.
- Listen with an open mind and heart – it allows deeper understanding and, therefore, progress.
- 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.
- Be concise and try to speak only once on a particular issue unless you have new or different information to share.
- 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.
- If you miss a meeting, get up to speed before the next one, as the TAC cannot afford the luxury of starting over.
- Focus on the issue, not the speaker – personalizing makes it impossible to listen effectively.
- Present options for solutions at the same time you present the problems you see.
- 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.
- Stay positive; despairing of the group's inability to reach agreement will almost certainly make it so.

Betsy mentioned that in order to meet the deadline and take the proposed regulation amendments to the August Board Meeting the documents will have to be ready in mid-July.

Summary of Comments Received from Notice of Intended Regulatory Action (NOIRA)

Betsy provided a summary of the comments that were received in response of the NOIRA. Betsy noted information related to this action and the specific comments. Betsy pointed out that some of the comments were requesting to be on the TAC committee and many of the comments were very similar if not identical.

Company or Organization Representing	Comments
Virginia Farm Bureau Federation	<ul style="list-style-type: none"> • Requested to serve on TAC • Keep the regulation the same

Virginia Agribusiness Council	<ul style="list-style-type: none"> Requested to serve on TAC
Virginia State Dairymen's Association	<ul style="list-style-type: none"> Requested to serve on TAC
Virginia Cattleman's Association	<ul style="list-style-type: none"> Requested to serve on TAC

Company or Organization Representing	Comments
Chesapeake Bay Foundation	<ol style="list-style-type: none"> Requested to serve on TAC; DEQ require practices in the 10-year AFO VPA General Permit that will in fact lead to the necessary nitrogen, phosphorus, and sediment reductions for the sector; DEQ should include language in the General Permit requiring fencing reporting (reported) to DEQ; DEQ should also include provisions that will require operators with 20 or more bovines to adopt stream exclusion systems by 2028 or at least no later than the date that practice becomes mandatory; DEQ should consider requiring all six priority practices; (1) nutrient management, (2) animal waste management systems, (3) conservation plans, (4) barnyard runoff control systems, (5) stream fencing on pastures, and (6) vegetated buffers on pastures; DEQ require groundwater monitoring at all liquid waste storage facilities, rather than just those constructed after December 1, 1998; DEQ should consider whether the existing parameters for monitoring sufficiently cover the realm of pollutants that could reach state waters through liquid waste storage facilities; DEQ should consider requiring groundwater monitoring more frequently than once every three years and the results of such sampling should be reported to DEQ; DEQ must incorporate additional mechanisms to dictate necessary thresholds for monitoring and required steps a facility must take in the event of any exceedance; modified the permit to require that waste transfer records be submitted to DEQ (see 9 VAC 25-630-50 Part I C 3). DEQ should incorporate the same change here; DEQ should also consider adding language to the permit requiring the submission of NMPs to DEQ; The terms of the current permit nowhere require that an NMP be unexpired, nor that it be annually re-evaluated; and DEQ should address how it intends to resolve these comments related to inspections and enforcement as part of the stakeholder process. (related to 2015 EPA Ag Assessment;

Betsy highlighted the main comments (listed above) from the Chesapeake Bay Foundation.

Betsy stated that we do not have much information related to the fencing reporting and will need more information on this comment (# 3 above).

The EPA priority practices (# 5 above) Betsy stated that many of these practices do not pertain to the regulation. The ones that are included are the nutrient management and animal waste systems. Betsy explained that this regulation does not include conservation plans but if there are tillage practices, the tillage practices should go into the NMP, and by default the tillage practices would be a part of the NMP and its implementation. Barnyard runoff control systems, stream fencing on pastures, and vegetated buffers. Betsy explained that pastures are not considered confinement and therefore we do not get involved with requirements on pastures. Barnyard runoff control systems, there should be these systems in place on the farm to manage the runoff in the barnyard; the regulations do not specifically say that a system is required but the regulation does require the permittee to manage runoff in order to not have a discharge.

Betsy explained that (# 6 above) seems to be a misinterpretation of the condition and that the date was added to the condition because there was a change in the regulation that became effective in December of 1998, we cannot require that a facility constructed before December 1998 to meet new construction conditions. This date does not have anything to do with the groundwater monitoring. Groundwater monitoring is required when during construction of a waste storage facility if the seasonal high water table is encountered through borings that the bottom elevation is below the seasonal high water table or within one foot of the seasonal high water table, then groundwater monitoring is required. If seasonal high water is not encountered during construction, then the bottom elevation would be more than one foot above the seasonal high water table and therefore no groundwater monitoring is required. This requirement is stated in the Law.

Betsy stated that she believed that (# 7 above) is related to groundwater.

Betsy explained that (# 8 above) the department does get the groundwater analysis reports. The frequency is required annually by the NMP which is more frequent than in the permit.

Betsy explained that (# 9 above) if there is an issue with monitoring or any non-compliance, we go through our enforcement process which would require increased monitoring, more than once per year. We require an action plan. The action plan would require information about the reason/cause for the non-compliance, what will be done to fix the issue, etc.

Betsy stated that (# 10 above) that in the 2021 regulatory action for the Poultry Waste Management Regulations, there was a change to the conditions related to poultry waste transfer records, these records are now required to be reported to the department. The Law requires the department to track poultry waste transfers. Since the Chesapeake Bay TMDL was developed, the department found that Virginia is able to get credit for transfers of nutrients are moved out of the Bay watershed. There is no mode in the Bay model that would allow Virginia to get credit for these types of waste transfers.

Betsy explained that (# 11 above) that NMPs are required to be submitted to the DEQ at the time of the application and anytime that the NMP is updated. Staff generally pick up the updated NMPs at the time of the inspection. We should always have the most recent and current NMPs, but sometimes they are not yet entered into the (electronic file) system.

Betsy explained that (# 12 above) that in order to remain in compliance, the NMPs must be current to include the crops planted and must be at least completed once every three years. Some plans are revised more often, as much as once every year. DEQ uses the NMP (DCR requirements) in this permit. The NMP regulations are authorized by the DCR, making changes to the NMP regulations would not be done through this process. Changes made to the NMP regulations will have to be done when there is a regulatory action initiated. Betsy asked Seth to explain the plan program. Seth explained that the NMP regulations require a crop NMP to be written for a maximum of three years. For the hay and pasture NMP, it is a maximum of five years. There is no minimum, the NMP can be written for six months up to five years. Most dairy NMPs include crop land and are written for three years but are updated annually to account for cropping changes or manure analysis changes.

Betsy explained that (# 13 above) this comment is related to the EPA Ag Assessment completed in 2015 and that the EPA recently completed an update that is not quite final. EPA is working to finalize the Assessment now. Some of the comments in the 2015 Ag Assessment were related to our timing of inspections during the year and deficiencies with NMPs (expired NMPs). EPA uses information submitted from DEQ, DCR and VDACS to complete the Ag Assessment. Betsy stated that we have made some changes to our program, and we did a lot of work to determine the reason for the inconsistencies in the numbers in the DEQ versus DCR databases related to expired and valid NMPs. What we discovered is that the NMP numbers reported were based on outdated information in the system from DCR. Betsy went through all the DCR NMP records to make sure the information was updated using the DEQ permit data and Seth updated the DCR database based on the DEQ permit data. Seth added that the information in the DCR database includes the approved NMPs for the VPA/VPDES animal waste permit program and most of the data is for permits covering poultry operations. Some of the changes include, DCR is now encouraging that the DEQ permit numbers be included on the NMPs.

Seth added that the animal (non-poultry) information was better than the data for the poultry operations. Betsy (added to Seth's comment) agreed and stated since there are so many more poultry operations. Seth stated that poultry operations change hands more frequently. Seth explained that a lot of the problem with the DCR data was that when one person was named on the NMP and the next time the plan was written that the son was now on the NMP. Each person would be entered into the DCR database, so it appeared that the first person would now have an outdated plan. But the new NMP was the current plan. The DCR data made it look like there were a lot more expired and invalid NMPs than there were because there were more entries in the database than there should have been. The entries should have replaced the old NMPs. Betsy explained that since that time, this has all been resolved. Betsy stated that DEQ made changes to the program as a result of the recommendations in the 2015 Ag Assessment and that there is nothing to resolve at this point related to the Ag Assessment. Betsy stated that since the 2015 EPA Ag Assessment, DEQ has implemented a revised inspection report form statewide. Betsy explained that staff were already using the same report form with the same information,

but it may have appeared different (looked different like page borders or no page borders or the information was located on a different page) for someone trying to compare them.

Mark Frondorf pointed out that there was another comment that was submitted by the Chesapeake Bay Foundation. Patrick Fanning was supposed to be at the meeting but could not attend. They raised the issue that the AFO regulations should be in concert with the Chesapeake Bay Phase III Implementation Plan. Mark discussed SB 1129 which provides for a two-year extension and calls for an additional reduction of 6.2 million pounds of Nitrogen from Virginia’s waters by 2027. There does not seem to be any reductions in the AFO permit. Mark stated that the reductions will need to come from all sectors of agriculture.

Betsy asked if they were looking at reductions in the land application requirements. Betsy explained that the reductions would need to be completed through the NMP regulations. Mark stated that from all of the above, land application, entry into groundwater, more testing. Mark stated that there are improvements to the permit, but collectively that more needs to be done. Mark wanted to point out that the comment was not included in the summary. Betsy said that she saw that it was missing and thought she had added it and she will update the section in the summary.

The summary above was updated above to reflect the missing comment (# 2 above): *DEQ require practices in the 10-year AFO VPA General Permit that will in fact lead to the necessary nitrogen, phosphorus, and sediment reductions for the sector.*

Company or Organization Representing	Comments
Shenandoah Riverkeeper, Potomac Riverkeeper Network, Waterkeepers Chesapeake and Assateague Coastal Trust, Environmental Integrity Project Waterkeepers and Assateague Coastkeeper (Waterkeepers Chesapeake	<ol style="list-style-type: none"> 1. Requested to serve on TAC; 2. Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine groundwater monitoring; establish e. coli, Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure; 3. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water; 4. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater; 5. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking liners; Establish routine liner integrity testing and inspections; 6. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs; 7. Require groundwater monitoring plans to be certified by a professional engineer or qualified DEQ staff prior to permit reissuance;

<p>submits comments on behalf of the Waterkeepers listed below and supports the comments submitted by Potomac Riverkeeper Network, Shenandoah Riverkeeper, James Riverkeeper, and Environmental Integrity Project)</p>	<ol style="list-style-type: none"> 8. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead; 9. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated; 10. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the Department of Conservation and Recreation; and 11. Write the draft AFO Permit in a way that will protect the Chesapeake Bay.
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Betsy highlighted the main comments (listed above) from the Shenandoah Riverkeeper, Potomac Riverkeeper Network, Waterkeepers Chesapeake and Assateague Coastal Trust, and Environmental Integrity Project.

Betsy explained (# 3 above) that we do not have specific thresholds, but we have reporting requirements if there is a spill or any non-compliance, the requirements are found in Part II of the general permit contents (9VAC25-192-70). If we get any unusual monitoring data: groundwater, waste, or soils we would review the data and find out the cause. That could mean repeated monitoring and we could require an action plan. The general permit regulation contains requirements that if the permittee cannot maintain compliance with the general permit that the permittee can be required to obtain an individual permit.

Betsy asked for clarification from Mark if the comment (# 4 above) was related to already constructed waste storage facilities. Betsy explained that we do not allow facilities to be constructed in the 100-year floodplain. Mark said that the comment was in reference to already constructed impoundments.

Betsy explained that (# 5 above) for compacted soil structures, if they meet the compaction requirements (permit requirements) they are engineered not to leak. We have many compacted earthen structures and many engineered (synthetic) lined structures (covered under this permit).

Betsy explained (# 6 above) everyone who must analyze groundwater must complete it on an annual basis. Some are more frequent but are not in a general permit. The frequency is

increased based on the NMP special conditions. At this time, we do not have an option to receive the analysis reports through the e-DMR system. We do get the reports and can request them anytime.

Betsy explained (# 7 above) that for the general permit, the permittees that must perform groundwater monitoring do not have groundwater monitoring plans. That requirement is included in individual permits. Any permittee that must submit a groundwater monitoring plan, the plan must be approved by DEQ staff.

Comment # 8 above, Betsy asked Mark to explain what is meant by evaluate whether higher freeboard requirements will be needed. Mark explained that given that increased summer storms that provide a deluge much greater than a 24-hour storm that there is sufficient freeboard to handle the storm. Mark said that he knows that DEQ has required 2-foot freeboard. Betsy stated that she was not aware of any animal waste permits that require a 2-foot freeboard requirement and Betsy asked if he was speaking about a stormwater basin Mark noted that (Darling Ingredients) is required to maintain at least two feet of freeboard rather than one foot. Neil Zahradka explained the one foot of structural freeboard plus accommodation for the 25-year, 24-hour storm event that could change with climate data. Darrell Marshall mentioned that when the NMP is developed like the stormwater and roof area runoff information is considered. Betsy added that the management of the site can change based on a storm, for instance the stormwater can be diverted in order to control the water from entering the storage facility. This is what we expect. These are site specific issues. For the comment about issuing the permit for five years instead of 10 years: the law requires that the animal waste permits are a minimum of 10 years. The law would need to be changed before we can make a change to the permit term.

Betsy explained (# 9 above) there is no requirement for the NMPs to be submitted electronically but the regulation does require the NMPs to be submitted with the permit application along with the DCR approval letter. The NMP must be kept current, and it must be approved by the DCR. Updated NMPs must also be sent to DEQ whether they are revised once a year or once every three years. Mark said that the point of the comment was the issue of transparency that Director Rolband is all about transparency. The ease of looking at information on the laptop. Having it electronically on the laptop would be easier than scheduling a time to view the files. It would be easy to add the information to the website. Betsy explained that the NMPs contain a lot of information and the documents are subject to the Freedom of Information Act, you would not be able to obtain them from DCR or NRCS. Betsy did not believe that we would ever post the NMP on the website because there is so much Personally Identifiable Information including in the NMP. DEQ has an electronic file system, we can email the information upon request, so it is available and unless a requestor is asking for a substantial amount of information, the requested information can be emailed.

Jeremy Moyer asked what would be the point of someone asking for an NMP? Mark responded with a hypothetical scenario: if an NMP is written for corn, and the agronomic rate of 70 pounds of Nitrogen and 70 pounds of Phosphorus applied but the farmer got sick or did not plant the corn and over time the Nitrogen and Phosphorus would build up over time. They would like to know what is going on with the land. Jeremy thought that if someone wanted to find out if there

was a problem then they could contact DCR. Mark said they do not know what the NMP says. Jeremy responded and said that is why you could contact DCR. Jim Riddell said there could be fields that do not receive all the nutrients as planned. Every NMP is individualistic and full of information. When the NMPs are developed you must know exactly how much storage you have and how much rainfall and transpiration and evaporation. The NMP is a fluid thing and you look at it seasonally. Jeremy mentioned that if you change the crop you must update the NMP. Seth mentioned that the NMP is public information but there are concerns related to privacy. Mark commented that it should not be a heavy lift to submit them electronically. Seth pointed out that there are two systems for writing plans and that with the old plan writing system used by private planners, the best way to get the NMP out of the software is to print the NMP. It would have to be scanned in order to make it electronic. The new software is already electronic. Seth pointed out that DEQ will receive a copy and then scan to make the copy electronic. Cliff Williamson mentioned that there are a number of producers that do not use electronic devices for religious reasons, so if there are changes to the rule there would have to be another way to make the NMP electronic. Cliff mentioned that to Seth's point there is a digital version. Neil said to amplify what Betsy said that everything that comes into the DEQ office is scanned into the electronic file system.

Mark explained (# 10 above) that the comment was another way to talk about the Chesapeake Bay Phase III Watershed Implementation Plan. Betsy asked Seth if he knows when the NMP regulations will be opened. Seth does not know anything specific. Mark said that talking with farmers and that a lot of things are being done, but there is no credit being given for those things. For instance, some farmers may not receive any funds to do things (practices) and if the NMPs were submitted electronically, then it may be found that we are meeting the goals and it is not to say that the Ag sector is not doing enough. Having the NMP submitted electronically could go a long way to help meet the Phase III Implementation Plan. Seth said that the DCR NMP data whether there is cost share or not is sent to (EPA Bay Program). Seth thought maybe what Mark is describing are other practices (BMPs) that could be done without cost share, those practices may not be captured and reported. He explained that when a certified NM planner writes an NMP the plan writer must submit the information to DCR and that information is then submitted to the (EPA) Bay Program. Jim stated that every year he must submit the watershed, how many plans written, etc. Seth agreed, every year. Darrell said that also goes for operations that have plans written under the Ag Stewardship Act.

Mark explained (# 11 above) this comment was about the SB 1129. Neil explained that it would be nice to have one regulation to handle all of the ag sector requirements. The statute is very limited in scope to the AFO General Permit. Not to belittle the importance of meeting those goals but there are limitations on what can be put into the regulation.

Company or Organization Representing	Comments
Center for Biological Diversity	1. Requested to serve on TAC; 2. Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine

	<p>groundwater monitoring; establish e. coli, Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure;</p> <ol style="list-style-type: none"> 3. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water; 4. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater; 5. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking liners; Establish routine liner integrity testing and inspections; 6. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs; 7. Require groundwater monitoring plans to be certified by a professional engineer or qualified DEQ staff prior to permit reissuance; 8. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead; 9. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated; 10. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the Department of Conservation and Recreation; 11. Write the draft AFO Permit in a way that will protect the Chesapeake Bay; 12. Continuing to improve public access to all permitting, compliance, public complaint, and state inspection and violation documents for all AFOs. 13. Improving language access by making all permitting materials available, at a minimum, in both English and Spanish languages.
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Betsy highlighted the main comments (listed above) from the Center for Biological Diversity.

Betsy went through the comments and stated that most of the comments are identical to the ones already discussed except for comment # 12 & # 13 above.

(# 12 above) As mentioned previously, any documents that are pertaining to the permit, any inspections, complaint investigations, any violations, or any enforcement documentation that once considered complete are available to the public. The public has access to the documents through the Freedom of Information Act. A request can be made for a specific facility or they specific items or all information under this general permit. When bigger requests are made, the requestor may be asked to come to an office so you can see it on the screen instead of having staff email the information or have the requestor pay to have it copied and mailed.

(#13 above) We are already looking into trying to accommodate for different languages spoken by the permittees. We have quite a few permittees that are not fluent in English, I had a new data field added to the database so we can document a permittee's preferred language. This will allow staff to determine if we need a translator or if we need to get documents translated into different languages.

Company or Organization Representing	Comments
James River Association	<ol style="list-style-type: none"> 1. Include technology and protocols that identify and source groundwater contamination; include bacteria monitoring; establish limits on other parameters (ammonia nitrogen, nitrate nitrogen, pH, conductivity in impacted groundwater. 2. Identify and close unlined earthen waste storage facilities constructed prior to December 1, 1998; 3. re-evaluate freeboard height in light of increased frequency and severity of precipitation events; and schedule the closure or remediation of existing manure impoundments that are in close proximity to surface water or groundwater or that sit in groundwater.

Betsy highlighted the main comments (listed above) from the James River Association.

Betsy reiterated for comment (# 2 above) that the date was added to the regulation language because there was a change in the regulation, and we cannot require those covered prior to the change to meet the changed condition.

Actual rainfall data will allow for the 25-year, 24-hour storm numbers to change and that's what we use. Mark asked who controls the information (NOAA or USGS). When it changes based on the precipitation data, the language in the regulation allows for the changes in at any time. This number is determined by NOAA (National Weather Service - NWS). Darrell confirmed it is the NWS. Jeremy stated that most producers want to try to keep their height way lower than a foot of freeboard just to make management much easier. Being anywhere close to that is it even gets close to that forwarding some very stressful to manage it. Mark stated that he understood and the fact that it is codified is a good thing.

Seth asked if we could you go back the comment about public access to complaints. He asked if the complaints could be logged into the Pollution Response (PREP) database. He asked if they were they posted somewhere. Betsy responded that yes, and the database could be searched.

Company or Organization Representing	Comments
Environmental Integrity Project (These comments are	<ol style="list-style-type: none"> 1. Requested to serve on TAC; Must not allow groundwater discharges in this permit; require all General Purpose (GP) covered liquid manure lagoons to conduct routine groundwater monitoring; establish e. coli,

<p>submitted on behalf of the Environmental Integrity Project, Chesapeake Legal Alliance, Waterkeepers Chesapeake, the Shenandoah Riverkeeper, and the Potomac Riverkeeper Network)</p>	<p>Cryptosporidium, ammonium, and other pollutants and pathogens found in dairy and swine manure;</p> <ol style="list-style-type: none"> 2. Incorporate clean up thresholds and reporting requirements in the event that monitoring data or other information indicates that a manure storage lagoon or, liquid manure spills, or repeated land application has contaminated groundwater or surface water; 3. Setting a schedule for closure or immediate remediation of existing manure impoundments that are in close proximity to surface water or groundwater, or that sit in groundwater; 4. Setting a schedule for closure of manure impoundments that have compacted soil and/or leaking liners; Establish routine liner integrity testing and inspections; 5. Require more frequent (annual or semi-annual) groundwater monitoring and electronic submittal of results to DEQ on e-DMRs; 6. Require groundwater monitoring plans to be certified by a professional engineer or qualified DEQ staff prior to permit reissuance; 7. Increase freeboard heights to account for expected larger rainfall events. The current permit requires 1 foot, up to and including a 25-year, 24-hour storm. The Department should evaluate whether higher freeboard requirements will be needed over the 10-year term of the permit, or whether to issue the permit every five years instead; 8. Require electronic submission of initial and current nutrient management plans to VDEQ as they are updated; 9. Expand the amount of information contained in NMPs to enable the department to determine whether the state is meeting its agriculture-related local and Chesapeake Bay TMDL implementation milestones. To the extent possible, this information should be submitted electronically to enable accurate and efficient analysis by the Department and the Department of Conservation and Recreation;
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Betsy highlighted the main comments (listed above) from the Environmental Integrity Project.

Betsy went through the comments and stated that most of the comments are identical to the ones already discussed.

Roy Van Der Hyde stated that he disagrees with most of the comments because he knows how he runs his business. Roy asked who decides what gets added to the regulation. Betsy stated that staff will make recommendations based on the TAC recommendations, concerns, etc. and she will take the recommendations to the State Water Control Board.

Betsy did explain that we will need to make changes to the dates to allow for the extension of the general permit.

Betsy stated that the draft proposed language was just a first draft that is still open for discussion. She further stated that staff must go to State Water Control Board and to public comment with a proposed regulation and it is possible to come back with more comments that will produce more changes.

Summary of the Existing VPA Regulation and General Permit for Animal Feeding Operations and Animal Waste Management

Betsy provided information related to the current requirements in the contents of the general permit. (Part I) The permit requires monitoring of soils, waste, and groundwater. For groundwater it is, the way it stands right now it is only required if the seasonal high water table is encountered when the borings are taken. The preference is that adjustments are made to the particular storage facility so that the bottom elevation is not close to the seasonal high water table. Betsy went over the storage design and location conditions. Many of the conditions have existed from the beginning of the regulation. Some of the conditions were added in the last regulatory action for: solid and semi-solid waste (manure); the construction and operation of new treatment technology such as a digester; off-site waste requirements and the conditions related to transferring waste. The requirements related nutrient management including the contents of the NMP and the requirement to implement the NMP. The waste transfer requirements are similar to those in the Virginia Pollution Abatement (VPA) general permit that covers dry poultry operations. Betsy pointed out that the training requirement comes directly from the law and there are many other requirements that come directly from the law. Betsy reiterated what Neil had said earlier, that we are confined to what we can cover under the permit, and we can require someone to obtain individual permit. Part II are conditions applicable to all VPA permits. Part III are the conditions for an animal waste end-user. Betsy went over the technical regulations related to animal waste end-users. We try to make both of the VPA general permit regulations consistent.

Neil pointed out that the changes to add the technical regulations were added during the last regulatory action in 2014.

Summary of Draft Proposed Revisions to Regulation

Betsy discussed some highlights of the draft proposed changes DEQ has identified.

Betsy discussed the Virginia Environmental Laboratory Accreditation Program (VELAP) condition added in the groundwater monitoring part of the contents of the general permit. Jim asked for clarification. Betsy further explained that the field sampling and analysis that is done in the field would not be required to

Mark asked how many labs are accredited under the program. I told Mark that I would find out where he could get the information. Mark suggested that we could add a definition about field sampling.

Betsy showed and discussed a new condition related to emergencies and suggested that the condition is added using similar language that was added to the VPA Regulation and General Permit for Poultry Waste Management.

Betsy explained that she created a new subsection to reorganize the existing special conditions to facilitate the permittee to understand better and find the conditions easier. This reorganization mimics the reorganization that was done to the VPA Regulation and General Permit for Poultry Waste Management during the last regulatory action. The original subsection has been changed to include only the site conditions and the training requirement and the new subsection is specific to include only the animal waste transfer and utilization conditions. Betsy asked the members if they had any concerns with making the additional changes. These changes could be down in Part I and Part III.

Betsy recommended removing the training requirement from Part III, the law is specific and states the requirement is for persons operating confined animal feeding operations. The TAC discussed some of the requirements of the technical regulations.

Betsy let the members of the TAC know that the Fact Sheet may have to change depending on what changes are made. There is one statement that will be added to the top of the spreading schedule because the spreading schedule in the Fact Sheet does not contain all crops: "The application schedule below shall be followed in cases where the land application is not being covered under a Nutrient Management Plan (NMP) - not using Option 1. - NMP to determine the land application rate." Betsy will add the recordkeeping form will be added to the Fact Sheet which will extend the document length.

Mark said he had no problem with removing the training requirement.

Betsy noted that most of the changes were administrative (e.g. effective dates and correcting citations). And pointed out two additions to the definition section.

Betsy walked through all of the changes in the draft proposed regulations. Added a sentence to the closure condition based on the comment from the staff in the Attorney General's office during the last periodic review.

Betsy walked through the draft changes to Part III.

Jeremy asked about condition (Inspection and entry) on the top of page 31, who can enter your property. Is a duly authorized agent and employee of the department? Who is a duly authorized employee? Betsy stated that it would be any employee in the department, but that only certain staff can perform an inspection.

F. Inspection and entry. Upon presentation of credentials, any duly authorized agent of the department may, at reasonable times and under reasonable circumstances:

1. Enter upon any permittee's property, public or private, and have access to records required by the VPA permit;
2. Have access to, inspect, and copy any records that must be kept as part of VPA permit conditions;
3. Inspect any facility's equipment (including monitoring and control equipment) practices or operations regulated or required under the VPA permit; and
4. Sample or monitor any substances or parameters at any locations for the purpose of assuring VPA permit compliance or as otherwise authorized by law.

Jim thought it seemed broad. Nelson Daniel stated that it was pretty standard language.

Neil stated that (any duly authorized agent of the department) is more restrictive in the proposed language versus the current language (authorized state representatives).

P. Right of entry. The permittee shall allow, or secure necessary authority to allow, authorized state representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharge or discharges is located or in which any records are required to be kept under the terms and conditions of this permit;
2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;
3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;
4. To sample at reasonable times any waste stream, process stream, raw material or by-product; and
5. To inspect at reasonable times any collection, treatment, or pollutant management activities required under this permit. For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing pollutants. Nothing contained here shall make an inspection time unreasonable during an emergency.

Stefanie Taillon brought up that the new language states that the employee can enter upon any permittee's property, public or private, and have access to records required by the permit. Stefanie asked if agent could be changed to employee.

Lunch Break 12:07-1:30 PM

Neil introduced Rebeccah "Becky" Rochet, the Deputy Director of the Water Division and his boss. Becky will be joining us for the afternoon.

Betsy pointed out some of the other draft changes to include those based on the style guide put out by the Registrar's office, such as commas, etc. Betsy explained that the Registrar's office decides the overarching requirement for putting the regulations together. Replaced facility with "animal feeding operation" or "animal waste end-user" depending on the condition throughout the regulation.

Neil pointed out that there were some places that "then" was added to any statements that began with if to complete the "if/then" statements. Neil also mentioned that there were some places where "Board" was replaced with "department" are based on changes made that granted certain authorities to the department.

Mark asked about the definition of animal units, and who can be covered under the permit. Betsy stated that the 300 animal units definition defines the number of animals that constitutes 300 animal units. But in section 20 of 9VAC25-192, the regulation states: this general permit regulation governs the pollutant management activities at animal feeding operations having 300 or more animal units utilizing a liquid manure collection and storage system. This part of the regulation restricts the coverage to those operations with liquid waste storage systems. You can have poultry with liquid waste covered under this permit. Otherwise, those with dry waste are covered under the poultry general permit.

Betsy went over additional places where facility is removed or replaced. Changed the citation in section 60 of 9VAC25-192 since it was found to be no longer correct.

Section 70 of 9VAC25-192, Betsy pointed out that somehow the Part I was never labeled in the regulation. Neil stated that the substance was there. Becky stated that we had no heading.

Part I A, includes the groundwater monitoring requirements which includes language from the law. The regulation requires that all facilities previously covered under a VPA permit that required groundwater monitoring shall continue monitoring regardless of where they are located relative to the seasonal high water table, this condition mirrors the requirements in the law.

Seth asked if someone constructed a new facility above ground could they get out of groundwater monitoring. Betsy stated that they would not have to do groundwater monitoring for that particular structure. He asked if they closed the existing storage facility that required groundwater monitoring if they could stop monitoring, Betsy stated that would depend.

Cliff asked if each infrastructure project is joined for further clarification. Betsy explained that any new facility that gets built is subject to the conditions so if the structure does not meet the trigger for groundwater monitoring, then it does not need to be monitored. Betsy further explained that if there were impacts, then we may make the permittee continue to monitor until it is mitigated. Cliff asked if adding the language is adding a new demographic. Betsy explained that the addition of VPDES to the language is meant to make it clear that if someone was previously in a VPDES and moves back into a VPA (they would have been in a VPA prior to the VPDES) and previously had to monitor groundwater, they would continue to monitor groundwater. Betsy stated that a totally new waste storage system that is constructed above ground or that does not trigger the groundwater monitoring requirements then they are not required to monitor groundwater.

Betsy described the option for a permittee covered by a VPDES permit that does not discharge or non-compliance after five years in the permit, can move back into the VPA permit.

Betsy pointed out changes to the Tables in the Part I and Part III.

Betsy mentioned that during the break found a definition for field testing and measurements in the VELAP regulations. Betsy discussed options for definitions. Jim asked if there were limits on the groundwater monitoring. Mark mentioned that once every three years is inadequate for groundwater monitoring and there are no limits but to get a trend line, it would be better to catch in one year than wait for three years. Betsy mentioned that the NMP requires at least once every year. Mark asked if the more restrictive requirement would be followed. Betsy said yes. Betsy checked the law to see if there were any restrictions or mandates related to how often the groundwater monitoring is required. Seth looked at the NMP special conditions, they state that groundwater monitoring will be at least once every year. Betsy stated that the NMP special conditions are where we get higher frequency and that there is nothing in the law mentions the frequency. Betsy stated that it can be changed in the regulation. Mark asked why would we not change the regulation. Cliff stated that it is not a part of this statute. Seth mentioned that it is already required by the special conditions. Cliff stated that there is a separate Code that the NMP requirements comes from. That the permit sets a minimum frequency. Seth stated that there are things in the special conditions that are not related to nutrient management or out of the NMP regulations. The DCR regulation does not address waste storage requirements for groundwater monitoring. Mark asked if a DEQ rep goes out to a facility and a permittee only completed groundwater monitoring once in three years, would they be in violation? Betsy said they would be out of compliance because the NMP special conditions states that the requirement is once

every year. Mark stated that in order to minimize confusion and ambiguity that they would be consistent. Stefanie asked Cliff about his point is the requirements are not tied together. Becky states that we have a conflict, and she is trying to balance what the requirement is and the NMP.

There was much discussion about the frequency of the groundwater monitoring and where the increased frequency came from and why. Becky tried to ascertain whether it will be a burden to the farmers if the frequency in the permit is changed to once every year if they are already monitoring once every year. Cliff and Stefanie both stated concerns with making changes to the permit language based on a document that is not tied to this regulation and concerns that if changes are made now that when another change is made to the special conditions that the change will need to be made to the regulation again. After much discussion, Neil suggested that we take the questions back to the DEQ groundwater monitoring experts.

Seth mentioned that he wondered if the change could have occurred in 2005. Betsy stated that she did not believe that the frequency has ever been changed. Betsy stated that we will look into the groundwater monitoring frequency and get back to them. Mark thanked us.

Darrell asked about the closure condition and the notification. Darrell asked if this would pertain to dry storage. Betsy because there are conditions that are related to solid and semi-solid waste that were added when we added conditions for a digester. We added the conditions closure condition since DCR was removing it from their special conditions. The closure condition was added prior to adding the solid and semi-solid condition. Darrell asked if it would pertain to a solid stack. Betsy said not if it was not constructed, was he asking about the structure?

Neil mentioned that the way someone is pulled into the general permit is because of the liquid waste.

Cliff asked if the enforcement or regulatory enforcement or regulatory authority for reporting would it end with the cessation of activities? Betsy responded that the permittee can request to terminate the permit. Cliff asked what would happen if they forgot to notify the DEQ about the closure. Betsy stated that they may receive a warning letter. Neil stated that the intent was to assist the permitted entity in its staying in compliance with the State Water Control Law. By DEQ being involved ahead of time and advising them about what they should do during closure is compliance assistance. The intent there is to make a clean departure from the general permit coverage.

Betsy circled back to answer Darrell's question. Betsy reviewed the definition of waste storage facility. Based on the definition of waste storage facility, means (i) a waste holding pond or tank used to store manure prior to land application, (ii) a lagoon or treatment facility used to digest or reduce the solids or nutrients, or (iii) a structure used to store manure or waste as written, the condition would apply to the solid and semi-solid storage.

Darrell asked if we can add liquid into the new sentence related to the notification to narrow the scope of the notification. Cliff asked are you looking to narrow the scope to liquid? Betsy stated that liquid is added to waste storage facility in other places in the regulation. Betsy asked the group if anyone had any objections to adding "liquid" in front of the notification. Neil asked Betsy if she was thinking about adding liquid to the entire condition or just to the notification. Neil stated that it would not be a good scenario if waste is left in a facility. Cliff stated that he understood the concern. Neil understood that there was value to having a storage shed. Betsy asked Darrell where his concerns the

closure or the notification requirements? Darrell responded yes, both. Cliff had concerns for being able to keep a structure especially if things are transitioning between uses.

Jim asked for a point of reference for number of permits in the last 10 years. Betsy responded that there were more permits 10 years ago and the numbers of farms is slowly shrinking. Betsy commented that people obtain the permittee and want to keep the permit because they may be valuable.

Mark asked where Jim got the breakdown of permits. Jim responded that the numbers were from DEQ.

Betsy asked where we are on this condition. Darrell mentioned the narrowing of the notification.

Betsy brought up that we have been getting concerns about the requirements related to adequate storage and covering the solid and semi-solid waste (condition B 8). Seth asked what about weeping bags or a dry stack that needs to drain and is placed next to the waste storage facility to drain back in. Darrell brought up the sentence first: "prevents contact with surface water and groundwater". Neil mentioned adding a sentence to allow for not covering. Darrell brought up piles in the production area. Cliff asked about piles outside of the system on a concrete pad. Roy asked about the closure of a concrete liquid storage system. Neil stated that this concrete would be handled under the waste regulations.

Betsy mentioned that there were significant changes to Part II. Betsy sent out a table that explains the changes. Stefanie asked if we need to use the condition word for word. Betsy noted that "Conditions Applicable to All Permits" is intended to be the baseline for the general permit. Becky noted that this issue has been discussed for other GPs as well and how to deal with conditions that do not apply to the facility. Betsy noted that expanding to far away from the conditions applicable to all VPA permits may be problematic and is awaiting a clear internal answer. Becky noted that DEQ will be having additional internal discussion regarding this section.

A question was posed about whether we had a definition for "reasonable time" related to the request for information. Becky noted that if we define it, we will have to put a time frame on it.

Mark Frondorf asked if it would not be valuable to add back "unpermitted" to unusual and extraordinary discharges that reach state waters. The notification should also include drinking water (groundwater).

Stefanie asked about the burden on the permittee to report "all available details". Becky explained the intent to get as much information is available.

Public Participation

No comments were offered.

Next Meeting Date

Betsy stated that the next meeting date will be June 30.

Adjourn

Betsy thanked everyone for their time and participation and adjourned the meeting at 3:35 PM.