



COMMONWEALTH of VIRGINIA

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SUBJECT: 1ST Technical Advisory Committee (TAC) Meeting to Discuss the 2016 Reissuance of 9VAC25-110, the General VPDES Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons per Day
TO: TAC Members and DEQ Staff (listed below)
FROM: Burt Tuxford, Office of VPDES Permits
DATE: January 28, 2015

A TAC meeting was held on January 22, 2015 at the DEQ Piedmont Regional Office. The meeting began at 10:00 am. Participants attending the meeting were:

<u>Name</u>	<u>Organization</u>
<u>(TAC Members)</u>	
Rick Blackwell	VSPE
Joel Pinnix	ACEC
Donnie Christian	Terra Tech
Joe Wood	CBF
Marcia Degen	VDH
Scott Fincham	VDH
Jason Weakley	VDH
Charles Evins	Private Citizen
Eleanor Daub	DEQ-CO
Allan Brockenbrough	DEQ-CO
Burt Tuxford	DEQ-CO
<u>(DEQ Staff Technical Liaison)</u>	
Kathleen O'Connell	DEQ-CO
Adam Eller	DEQ-PRO
Loan Pham	DEQ-TRO
Doug Frasier	DEQ-NRO
Clairise Shaheen	DEQ-SWRO
Susan Edwards	DEQ-BRRO (by Phone)
Sarah Mundy	DEQ-VRO (by Phone)
<u>(Other Attendees)</u>	
Walter Bailey	VDH

TAC Members not in attendance: Tim Hughes

Information provided before the meeting were:

- Regulation with draft amendments and staff comments dated January 15, 2015, VPDES General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 GPD, 9VAC25-110;
- TAC membership approval from the DEQ Director;
- Role of the TAC;
- NOIRA comments received; and
- TAC meeting agenda.

Agenda

- (1) Introductions
- (2) Status of the revised VDH Alternative Discharging Sewage Treatment Regulations (12VAC 5-640)
 - How would the VDH proposed changes impact DEQ's general permit?
- (3) Discussion of the DSD General Permit draft regulation with the changes proposed.
- (4) NOIRA Comments
 - Comment #7 - CBF request for nutrient monitoring and limits.
 - Comment #10 – Dechlorination and Post Aeration suggestion.
- (5) Other items for discussion?
- (6) Next meeting, Wednesday, February 25th.

Introductions

DEQ staff gave some background on the DSD general permit regulation and the APA process. Two TAC meetings have been scheduled, but we may need only one.

VDH Alternative Discharging Sewage Treatment Regulations Update

VDH staff gave an update of their proposed Alternative Discharging Sewage Treatment Regulations (12VAC5-640). Regulation has been at the Secretary of Health and Human Resources office for 195 days. Has been adopted by State Board of Health. As far as VDH knows there are no conflicts between their proposed revised regulation and the DSDGP regulation. Changes VDH made as a result of public comment: Maintenance Contract (MC), received comments that the MC was expensive - - includes an access fee and work fee (to do the actual work). Systems are similar to onsite systems; VDH doesn't care how the work is done, just need a certified guy to do it – VDH field staff will check the results. VDH inspection also had a \$75 fee. Folks didn't like that repetitiveness. So VDH visits only once, if Ok then once every 3 years after that. Revised regulation also allows wetlands as the 'receiving environment'. VDH will send a link to the VA TownHall and the summary of changes.

RickB: stated that denial of in-ground system is still there. VDH-Marcia: yes, but expanded and clarified. Up to and including TL1 and TL2 (related to effluent quality).

Discussion of the DSD General Permit Draft Regulation With the Changes Proposed

Section 10: Definitions

Took out "climatic year" – part of the 7Q10 calculation since nobody has to calculate that except DEQ.

Section 15: Applicability of Incorporated References

Explained that this section is now added to all regulations so that we don't have to change federal CRF 'reference' dates every time a regulation/general permit is revised.

Section 20: Purpose, Delegation of Authority, etc.

Changed the effective and expiration dates of the permit.

Section 60: Authorization to Discharge

This section in this GP was one of the first to reflect the new format we are now incorporating into all GPs. The only change in parts A and B is the revision of B.6, the TMDL restriction – the proposed language is how we are now including this in GP regulations.

A question was asked if the combined application form (VDH form) is mentioned as allowable.

DEQ: no, but Burt thinks the Registration instructions say you can use either. [*Actually the Registration instructions do not mention the combined form*]

RickB: but the combined application doesn't have several questions that are on the Registration form, so almost all SFHs will require both DEQ and VDH forms (for new). VDH-Marcia: we will check the combined form and make sure it is not a problem this time.

TMDL discussion – DEQ stated that the proposed change probably won't affect anyone. RickB: what if TMDL assumptions were wrong? The VRO early TMDLs assumptions might have been wrong in the models. Specifically Muddy Creek fecal and Nitrogen. TMDL staff agreed that TMDL would be rerun - - assumptions were wrong initially. AllanB: bacteria won't be a problem, Nitrogen might, but we can't issue a permit in noncompliance with a TMDL. Burt: in the newer TMDLs SFHs are treated as an aggregate – everyone needs to be consistent with TMDL. TMDL staff is aware that some SFHs did have WLAs, which was wrong. RickB: this is just a concern of his.

JoeW-CBF: please describe CB TMDL aggregation. AllanB: SFH – all were lumped by watershed. Some may have had a growth factor. We didn't really know.

Subsection C: Compliance. Some additional enforcement language will be added to be consistent with the Seafood GP we are also working on now.

Subsection D: Continuation of Permit Coverage. Allows us to administratively continue coverage under the old permit under specific circumstances.

Section 70: Registration Statement

Not quite in conformance with combined VDH form.

DEQ question for TAC – Permit allows automatic coverage for some permittees (4 types of folks fall under this). Should we continue this or have everyone reapply? Right now there are about 2600 permittees covered statewide, mostly in VRO. Burt described the NOIRA mail out. Got 200-300 back. Mailing Issues – how did the different DEQ Regional Offices handle this?

SWRO-Clairise: reached out to local VDH who shared their database of addresses (ones they inspect regularly) and she made calls. Few where ownership changes, a lot were problems with location address vs. mailing address. Continuation of coverage worked well - - they reached out to local VDH to see who should NOT get automatic coverage. There were a number who didn't need coverage (got connected to central sewer or never were built).

TRO-Loan: only had 3, so figured it out

NRO-Doug: used tax records - - can find out whether rental or location address. About half were change of ownership.

PRO-Adam: same as NRO.

BRRO-Susan: VDH district not helpful - - they don't inspect or keep records. All the burden fell on DEQ.

VRO-Sarah: They check Tax records to verify. Have 963 permits.

VDH – Lord Fairfax has 450 permittees - - their records are good. OK with the automatic reissuance. Some communication issues - - some permittees that VDH didn't want automatically renewed DEQ did renew. Need to work more on the technical implementation between DEQ and VDH.

CharlesE: confused about permit continuation and due dates. Category 1 – Automatic. Category 2 - Submit Registration by June 2, but no later than Aug 1. Language is not clear. Should be better way to state this. If you can't find permit holders why not contact them and say you fall into 2 categories let us know which – either way DEQ needs to make an effort to contact these people whether automatic or not. Burt: we know about our non SFHs, for the SFH – the VDH tells us which ones to get Registrations from. For most part automatic renewal worked – may need tweaking.

DonnieC: What about GIS? Can we tie the location GIS to tax records? Burt: we do have lat/long, we know where the facility and outfall are, but we have difficulty keeping track of ownership changes.

It was agreed to continue the automatic coverage with some tweaking, and with coordination with VDH.

JoeW-CBF: would we improve our inventory if we did mail out the Registration? Always better to mail out, but are we improving the inventory as we go along with these mail-outs?

Kathleen: trade off for the need for an accurate list vs. chasing after a complete RS.

RickB: clients liked the automatic reissuance, and those who weren't automatically renewed got a letter from VDH saying why they were required to submit a Registration.

JoeW-CBF: what is best for DEQ?

Subsection B: Registration Statement. Subpart B.2.b – proposed to add that if the owner is not the operator, provide the operator information. TAC discussion: What if operator changes? In 2021, would they have to reapply? VDH: for SFH the operator would be different for every single one. RickB: for new construction the permittee doesn't know who the operator is when they submit the Registration. Registration also asks for the maintenance provider (operator, in effect). Maybe we are asking for a contact not the operator? VRO-Sarah: we thought that might be helpful - - a local onsite contact. What if owner is not operator? RickB: 3 groups of folks, chlorine tablet / aerator person, sometimes is owner, sometimes is an operator (once a year overall system check and to work with owner or a tenant to show them how to do it). Q: Don't owners get a manual? RickB: yes, but occupancy changes so pump out frequency changes. Use registered agent? Terminology is confusing - - check DPOR terminology. Operator not getting a certification through VDH. What about Primary Contact if owner is NOT the primary contact (because owner may want to be the primary contact). Operator has a specific meaning for VDH and the SFH permittees that is different from the VPDES "owner" meaning.

TAC decided to change B.2.b to ask for "dwelling contact" name/info.

Subpart B.9.a. Proposed to delete the Maintenance Contract information for SFH since it's not a DEQ requirement. VDH-Marcia: what about leaving in the first sentence, indicate if a Maintenance Contract has been gotten from VDH regulation citation. Also call it a Maintenance and Operations Contract. Kathleen: but we can't enforce VDH regulations. So if answer is NO we can't have a complete Registration. VDH: what about just telling them to see 12VAC5-640-500? Kathleen: we can say something in the instructions. VDH: if you take out completely you are silent on one entire facet of permit holders.

The TAC decided to leave the first sentence and change it to instruct the permittee to see the VDH regulations.

BRRO-Susan: what if we find a different owner that doesn't match the Registration – can we do a Change of Ownership form? ...or make them submit a Registration? What if they do not correspond back? Kathleen: if the problem is liability (who is liable) – enforcement action is limited to who held the permit. The correct person must apply and the permit be issued to the proper name. BRRO-Susan: if we send an automatic renewal letter out but the owner changed, then we sent the automatic renewal to wrong person.

CharlesE: what if I sell my place, and my name is under the automatic renewal, am I liable?

Kathleen: your defense is you are not the party discharging and don't have the ability to operate it. So enforcement action would be to the new owner and he is operating without a valid permit. But if problem is O&M (top of pyramid) - - is it operating correctly? Second is who is the permittee? Coordination with the local VDH is most important. BRRO-Susan: what if VDH doesn't do anything - - who is responsible? Kathleen: DEQ must ensure water quality is protected. Maybe BRRO needs to send out Registrations to everyone. (Marcia will discuss offline with Susan.)

JoeW-CBF: what is the main benefit? Staff resources, permittee resources. What about sending out letters to everyone to ask the question about automatic renewal and needing Registrations. Make them reply to DEQ so we know names and they know their responsibilities. DEQ response: we do send out a letter to everyone but there is no response expected so it is one-sided. But the letter tells them what they need to do.

Subpart B.9.b. Maintenance Contracts for non-SFHs. Proposal is to take the maintenance contract specifics out of the Registration form (since the requirements are in the permit), but put the specifics in the Registration instructions. SWRO-Clairise: does the Maintenance Contract need to be 2 years? VDH: we got rid of the term of the contract in our proposed regulation. Susan recalled that previously the in the permit (in the early '90's?) the term was 5 years. New facility was a 2 year initial term, then a follow on Maintenance Contract would go on. We were trying to matchup our permit with what was going on in the field. VDH: suggest just saying a Maintenance Contract shall be kept in force the entire permit term and not define the time period. That change should go in the appropriate place in the permit as well.

Subsection D: Where To Submit. Proposed to add this new subsection, which allows electronic submittal of the Registration. There were no objections.

Section 80: General Permit

Part I.A. Effluent Limits Table. Proposed to remove from Part I.A.2 that monitoring results for SFHs shall be submitted to the VDH, since that is a VDH regulation requirement. VDH said a reminder would be helpful. Monitoring data is not currently required to be submitted to DEQ. Do we want it submitted? VRO-Sarah said they would enter it into the database if submitted. TRO inspectors would like to see the data, so would NRO. Non-SFH monitoring doesn't get submitted? Why? VDH required monitoring submittal in their regulations - - DEQ did not. JoeW-CBF agreed the data submitted to DEQ helps them do their job better. CharlesE: would it better to send it all to VDH? Would that make it easier?

RickB: a lot of systems do not discharge at all. You're not going to get sample. Regulation says 'should not ' force a sample. Getting a sample is difficult in the first place (for a RickB ET system, that is). DEQ asked Joelp if he is seeing the same thing? He doesn't have a problem get a discharge - - he doesn't do the ET thing.

RickB: Chlorine disinfection is not effective because the flows are low and miss the contact point. He uses an ET bed. To be effective, you would need to stagnate the flow around the Chlorine tablet.

Do we need to eliminate the 'do not force a discharge' sentence? Instructions say if a sample is attempted, the log shall show all sampling attempts, and document and explain why no sample was taken.

SWRO-Clairise: need to decide what we will do with the data. Put in ECM, in CEDS? What if they force a discharge?

JoelP: footnote (3), (4), and (5) - - what does it mean when it says, "when the facility is discharging, continuous disinfection shall be provided"? Can you turn the chlorine off? JoelP said yes. Pump and disinfection are directly tied (treatment, to pump, to disinfection so pump and disinfection can turn on and off together). JoelP: performance standard is bacteria. Can we say just disinfection shall be provided in order to maintain the effluent limit? Burt: for the last reissuance we changed this to "when the facility is discharging."

JoelP: also has a problem with the Part I.A.3 "85% reduction" statement. What if EPA came and asked for demonstration? AllanB: this is a design for secondary treatment. If you're designed that way you are meeting the 85%.

RickB: why do we have a DO limit for a dry ditch? The limit applies when receiving waters 7Q10 flows are <0.2 MGD. For flows greater than this DO is assimilated in, based on earlier studies. Basically means you need to aerate. Aerators have limited lives. Flow is so low coming out the plant that the aerators don't work right. AllanB: these are more like drainfields than streams. *[This was also in comment #10 received during the NOIRA].*

VDH: for a dry ditch or intermittent discharge they require 250 or 500 feet of easement – maybe that can figure in.

RickB: need to prevent the flow from contacting animals, kids playing, etc. Sometimes have a drainfield trench that is underground drain but pipe is open at the end (like a French drain). Object is to infiltrate to ground first. Sometimes end is covered with rocks to control access and sampling point is before the ditch.

JoelP: they run into issues with shellfish waters – even with these non-discharging systems DSS won't decrease the condemnation. So there is a problem getting a system for these homes.

JoeW-CBF: what about eliminating the ditch as part of the flow to calculate the 0.2 MGD and eliminate the DO application there? AllanB: may need to consider the dry ditch thing with DO application.

RickB: there is sometimes breakdown between DEQ and VDH about the type of discharge (non-SFH vs. SFH) and outfall location, and if DEQ would have had input in that it would have avoided problems.

NOIRA Comment #7 - CBF comment: "Currently the general permit contains no monitoring requirements or discharge limitations for nitrogen or phosphorous. CBF believes that implementing monitoring requirements and discharge limitations for these parameters would improve the state's quantification of nutrient loads and present an opportunity for further nutrient reductions to help comply with the Chesapeake Bay TMDL." TAC Discussion: AllanB:

Yes, there is uncertainty about the discharges from SFH systems. However, the 18.7 mg/L TN and 2.5 mg/L TP assumptions used in the ChesBay TMDL are very conservative for these systems. The TP and TN may be higher concentration in these systems, but given the very low flows/no discharge we see, AllanB thinks the WIP analysis is plenty conservative. AllanB: maybe we (DEQ) can go out and do some direct monitoring outside of the permit. Maybe DEQ could tag onto that to confirm some of the numbers and assumptions used in TMDL/WIP.

RickB: systems designed to meet the VDH BOD limits achieve TN reduction, but TP is not reduced. JoeW-CBF: mostly interest is that large STPs are going to better treatment and with

affordable technologies and pressure on stormwater and agriculture - - don't want to forget this sector and potential improvements in treatment.

TAC decided not to include TN and TP limits in the general permit, but to monitor some systems outside the permit to confirm the WIP assumptions during this permit term.

Part I.C: Special Conditions – Subpart 2 a: Maintenance Contract – SFH – VDH would like the same change here that they suggested for the Registration section. VDH would also like the name changed to Maintenance and Operations.

Subpart C.2.b: Maintenance Contract – Non SFH – for proposed facilities, do we want the valid maintenance contract submitted to DEQ? SWRO-Clairise: no. VRO-Sarah: they require them upon inspection. She didn't think un-built systems need MCs (suggests within 30 days of operation, MC for proposed facilities). TAC decided that we do not need proposed facilities to submit the MC, unless requested. Maybe have them submit a certification that they have a MC. RickB: Are we saying maintenance contract or contract for testing? Unclear about procedure. If doing your own maintenance, engineer has done O&M manual and owner follows it. Are you saying keep contract in force unless you get an exception. Either have MC or working under an operation plan approved by DEQ. Confusing what you turn in to me. MC is one thing (once a year look see). O&M is another thing – adding tablets, etc... owner may do that. They get confused sometimes - - think they have a MC and they don't have to do anything else. VDH: what about just submit an O&M manual? Words are crossing lines - - MC vs. O&M.

RickB: owner is primary care taker and should be following the O&M manual to make the system work. MC is an assistance person to help when things go wrong and do system check once a year.

BRRO-Susan: for owner sampling, they (BRRO) refer them to local labs to do the sampling.

JoelP: need to define MC, oversight, etc.

RickB: for new projects, they don't really know the maintenance contractor – will say X name of maintenance contractor and assume MC contract, but sometimes the homeowner really is doing the work. Sampling must be done by one or the other. MC contractor is not person ultimately responsible – owner is. Ultimately needs to be clarified - - bottom line.

Subpart C.2.b – Proposing to add "d" - log of all maintenance performed. This is already being done by some permittees. Burt: we will look at making clear distinction between operation and maintenance (but maintenance is also changing the chlorination tablet). VRO-Sarah: referring to the new "d" - - log information was added to make sure somebody is keeping a log. She thinks "d" covers a lot of the discussion going on.

VDH: here are the requirements we see – the owner needs to figure out who is doing the work, and we need to put in the regulation who is responsible.

What about a form for all to use?

RickB: look at how VDH is handling - - O&M is definitely different. VDH vs. DEQ may be stated in regulation one way but doesn't reflect what is actually going on in the field.

Recommend both agencies fit what is happening. Homeowner is doing primary operation and have support from the outside which is in violation of DPOR. DPOR says only licensed operator can do the system operation. Most permittees can't afford that. Model VDH vs. Model DEQ won't happen in reality. VDH has licensed operator requirement. DPOR requires that the person to operator an onsite system must be certified. Our regulation says O&M can be submitted by homeowner which is in conflict with DPOR.

VDH: DPOR classification is for 40,000 or greater. Below that it is dependent on complexity.

VDH is agency requiring licensure - -not DPOR, not DEQ. Homeowners can get certified if they

want through DEQ training. VDH proposed to DPOR to add a 5th operator category with a lower onsite operator requirement, but this was not done.

Part II: Conditions Applicable to All Permits

Subpart II.A: Monitoring – Added #4, requiring the use of VELAP certified labs.

Subpart II.I: Reports of Noncompliance – Added the link for online reporting of incidents – One person stated that the hyperlink didn't work. [*The hyperlink is correct - - it's just not active in this draft.*] Q asked: What's an incident?

Subpart II.M: Duty to Reapply – The highlighted portion of Duty to Reapply will stay since we are keeping automatic coverage.

Subpart II.Y: Transfer of Permits – Made this section the same as we are including in other general permits now. Transfers are automatic – flexibility has been added.

NOIRA Comments

VDH will share the proposed Alternative Discharging System Regulation comments received and their responses – TownHall website has it – they will share the link.

NOIRA Comment #10: Suggestion to remove the dechlorination permit requirement – VDH said consider that with removal of DO requirement for a dry ditch.

Other Items For Discussion

Consider adding definitions for SFH, non-SFH , and receiving water

Next Meeting

Next meeting is scheduled for Wednesday, February 25th here at the Piedmont Regional Office at 10:00am. We will get a revised draft of the regulation for all to look at prior to the meeting.