

Virginia Pollution Abatement Regulation and General Permit for Animal Feeding
 Operations and Animal Waste Management
 Technical Advisory Committee (TAC) Meeting
 July 12, 2023 - 9:30 A.M.
 DEQ-Piedmont Regional Office

Meeting Notes from Technical Advisory Committee Meeting

Meeting Attendees

TAC Members	Representing
R.O. Britt	Virginia Pork Council
Brad Copenhaver	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
Tony Banks (alternate for Stefanie Taillon)	Farm Bureau Federation
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)
Patrick Fanning	Chesapeake Bay Foundation
Eric Paulson	Virginia State Dairymen's Association

Others Present	Representing
Courtney Bernhardt	Environmental Integrity Project
Marley Manjarrez	Chesapeake Bay Foundation

DEQ Staff Present
Nelson Daniel
Rebecca Rochet
Neil Zahradka
Merle Damico
Joe Crook

Absent TAC Members

TAC Members	Representing
Seth Mullins (technical support)	Department of Conservation and Recreation (DCR)
Michael Wright	Oakland Farm

Welcome and Introductions

The meeting was opened at 9:35 AM by Betsy Bowles, the Animal Feeding Operations Program Coordinator for DEQ 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 building logistics. 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.

Summary of Draft Proposed Revisions to Regulation and Discussion

Betsy went over the substantive changes to the regulation since the last TAC meeting.

Section 10 - Definitions

Added	Amended
General Permit	Vegetated Buffer (moved to alphabetize)
Local Government Ordinance Form (moved from other section of regulation)	
Permittee	
State Water Control Law	
Treatment works	

The members of the TAC had no comments on this Section.

Section 15 (new) - Applicability of incorporated references based on the dates that they became effective

Betsy explained that this Section is being proposed to make it clear which version of the Code of Federal Regulations is effective. This language is being added to other regulations as well.

The members of the TAC had no comments on this Section.

Section 20 - Purpose; effective date of permit

Betsy explained that there were no substantive changes made to this Section since the last TAC meeting.

The members of the TAC had no comments on this Section.

Section 25 - Duty to comply

Betsy explained that the language was being updated to be consistent with the Law.

The members of the TAC had no comments on this Section.

Section 50 - Authorization to manage pollutants

Betsy explained that in this Section the language which defined the Local Government Ordinance Form was removed and added to Section 10 - Definitions.

Betsy explained that the requirement for the end-user to complete the training was added back into this Section. Following internal discussions, this requirement was kept for consistency with the VPA Regulation and General Permit for Poultry Waste Management. The citation was removed.

The members of the TAC had no comments on this Section.

Section 60 - Registration statement

Betsy explained that the language which defined the Local Government Ordinance Form was removed and added to Section 10 - Definitions.

The members of the TAC had no comments on this Section.

Section 70 – Contents of the general permit

Part I - Pollutant Management and Monitoring Requirements for Animal Feeding Operations

Groundwater

Betsy explained that a permit condition was added related to when a groundwater monitoring corrective action plan is required.

Mark Frondorf asked what would be considered potential noncompliance.

Betsy explained that potential non-compliance could be an increase from previous monitoring results, but at that point it would not be clear that the facility is non-compliance.

Patrick Fanning asked about limits and benchmarks, and the potential results (would it mean a different permit type).

Betsy explained that a permittee would be required to stop any discharges as a part of the action plan if a discharge is discovered to be the cause.

Becky noted that DEQ was already requiring action plans and that it was just not stated in the permit.

Patrick stated that he thought it would be helpful language and was glad it was being added. Patrick also asked about why the parameters were chosen that were required. There was a discussion of why bacteria are not included in the required parameters. It was explained that there are standards for nitrogen and would show up in the monitoring results first.

Betsy explained that the permit condition related to the analysis of groundwater monitoring samples was amended based on the discussion at the last TAC meeting. Betsy further explained that language was added to clarify which parameters and types of samples are subject to the Virginia Environmental Laboratory Accreditation Program Regulations.

Betsy explained that the permit condition related to the groundwater monitoring frequency was amended based on the discussion at the last TAC meeting and internal discussions.

A question was raised regarding the basis for the frequency of once every three years. DEQ staff responded that they are not aware of why three years was chosen as the frequency in the original regulation.

Waste Storage

Patrick Fanning asked what was the basis for 12/1/1998 date – asked for confirmation regarding the selection of this date versus the 1994 date that the law went into effect.

Betsy explained that the date was chosen based on the effective date of when the amendments to the specific waste storage conditions. The amendments became effective on 12/1/1998.

Betsy explained that language was added to clarify which tools are to be used to determine the floodplain when siting animal waste storage facilities. This addition will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management.

Betsy explained that the permit condition related to covering semi-solid waste storage was amended based on discussions during the last TAC meeting. The amended language allows for the storage of semi-solid and solid manures to be stored adjacent to a liquid waste storage without being covered if the stormwater runoff is collected in the liquid waste storage.

Betsy explained that language to require the permittee to notify DEQ of plans to close a liquid waste storage facility was amended based on discussions during the last TAC meeting.

The members of the TAC had no comments on the waste storage requirements.

Nutrient Management Plan (NMP)

Betsy explained that the requirement to submit the revised NMPs prior to the expiration of the previous NMP was added.

A question was raised regarding whether there is an explicit requirement for submittal of a revised NMP when revised for crop changes and not expiration.

Betsy explained that Part II contains conditions that require the permittee to notify DEQ when changes are proposed at the operation. Betsy further explained that the NMP special conditions describe when a permittee must revise the NMP due to changes such as the crops to be grown.

Training

Betsy explained that the referenced citation in the permit condition related to the training requirement was removed.

The members of the TAC had no comments on this training requirement.

Part II - Conditions applicable to this General Permit

Betsy explained that there were numerous changes to Part II. These requirements were amended, re-organized and renumbered to be consistent with the other VPA general permit regulation - VPA Regulation and General Permit for Poultry Waste Management (9VAC25-630-50), but that none were substantive changes.

Becky asked a question about separation of conditions applicable to all versus conditions applicable to this permit.

Mark Frondorf asked a question related to the 25-year, 24-hour storm event and when the event would be determined as greater or not.

DEQ staff explained that the waste storage structure must be designed to contain the 25-year, 24-hour storm event plus 12" of freeboard and that any breach or exceedance of freeboard requirement would have to be reported to DEQ in order to make a compliance determination.

Part III - Pollutant Management and Monitoring Requirements for Animal Feeding Operations

Patrick Fanning asked about end-user requirements and use of the NMP versus the spreading schedule in the Animal Waste Fact Sheet.

Betsy explained that if the end-user has an NMP, the NMP is used to establish the timing of land application. The Animal Waste Fact Sheet is the method to communicate the regulatory requirements to the end-user.

Betsy explained that all the amendments that were made in Part I were also made in Part III.

Section 80 - Tracking and Accounting requirements

Betsy explained that there were no substantive changes made to this Section since the last TAC meeting.

The members of the TAC had no comments on this Section.

Section 90 - Storage and land application requirements for transferred animal waste

Betsy explained that the permit condition related to covering semi-solid waste storage was amended to reflect the changes made in the General Permit. This language allows for the storage of semi-solid and solid manures to be stored adjacent to a liquid waste storage without being covered if the stormwater runoff is collected in the liquid waste storage.

Betsy explained that language was added to clarify which tools are to be used to determine the floodplain when siting animal waste storage facilities to reflect the changes made in the General Permit. This addition will make this regulation consistent with the VPA Regulation and General Permit for Poultry Waste Management.

The members of the TAC had no comments on this Section.

Additional Discussion:

Patrick Fanning asked about inclusion of the Animal Waste Fact Sheet and opportunity to comment.

Betsy explained that, after the State Water Control Board approves the proposed language, there will be an opportunity to comment on the Animal Waste Fact Sheet during the comment period at the proposed stage.

Patrick Fanning asked about the stream exclusion bill and the relationship to 10-year term general permit.

Betsy explained that the Law and the Regulations for Animal Feeding Operation is limited to confined animal feeding operations. Betsy further explained that, by definition, pastured animals are not considered confined.

Public Participation

The representative with Environmental Integrity Project asked a question regarding groundwater monitoring frequency and adequacy of monitoring requirements.

Betsy explained the differences between the general permit and the individual permit and how they cover a broad range of facilities. Betsy further explained that the agency has the option to require a facility to obtain an individual permit if additional restrictions are necessary. The general permit includes the main requirements. The new language outlines the process to evaluate the necessity for an individual permit.

The representative with Environmental Integrity Project asked that DEQ evaluate changes in groundwater conditions over time.

The representative with Environmental Integrity Project asked about there being no exemption of a facility from federal requirements and asked what would be the process to make changes if the federal law changes.

Neil Zahradka explained that DEQ can initiate a regulatory action if changes to the regulations are necessary.

The representative with Environmental Integrity Project asked a question regarding changes in 25-year, 24-hour storm event data.

Becky responded that DEQ is involved in conversations with NOAA regarding accounting for climate change.

Adjourn

Betsy thanked everyone for their time and participation and adjourned the meeting at 11:09 AM.