

Reissuance of the VPDES Industrial Storm Water General Permit Regulation (9 VAC 25-151) - 4th Technical Advisory Committee (TAC) Meeting Summary

A TAC meeting was held on Wednesday, August 20, 2008 at the DEQ Piedmont Regional Office in Glen Allen, Virginia. The meeting began at 9 AM and ended at 4:00 PM. The following TAC members attended the meeting:

Mike James (VARA/James Environmental), Jud White (Virginia Dominion Power), Cary Lester (VMA/Steel Dynamics), Ian Whitlock (Joyce Engineering), John Roland (VAA), Lisa Ochsenhirt (VAMWA/Aqualaw), Susan Mackert (DEQ NVRO), Michelle Hollis (DEQ TRO), Kirk Batsel (DEQ SCRO), Curt Linderman (DEQ PRO), Burt Tuxford (DEQ CO).

Also attending the meeting was:

John Fowler (Henrico County)

The third draft of the regulation with proposed changes shown was emailed to the TAC prior to the meeting. Page numbers listed below refer to page numbers in the Draft #3 document. Two emails with comments on the draft and DEQ Central Office responses were also sent to the TAC prior to the meeting.

9 VAC 25-151-10. Definitions

- Clarifying question on "Co-located".
 - Is there a percentage of business or monetary threshold for being considered co-located?
 - No. If the activity takes place on site it is deemed co-located.
- Clarifying questions on "Non-storm water".
 - Is there really a difference between a discharge that's 100% storm water and 99.9% storm water? Would the 99.9% be considered non-storm water?
 - Is there a problem with the word "entirely" within the definition?
 - Do we really need to define non-storm water since storm water is defined and we list allowable non-storm water discharges elsewhere within the permit?
 - Decision made to remove definition of non-storm water.
- "Shall" versus "Must"
 - The word "must" will be replaced with "shall" to be consistent with other permits within the VPDES program

9 VAC 25-0151-50. Authorization to Discharge

- Decision to move B.5 (storm water construction – p. 9) to page 4 in front of Table 50-1.
- Discussion on TMDL language on page 4.
 - Some modifications were made based on language found in Georgia's storm water permits.
 - Is the use of "either prior to or during the term of this permit" a legal issue?

- Comment from TAC member that according to DCR/AG opinion, this makes the permit a moving target.
- "During term of permit" caused some heartburn for VAMWA.
- Does this automatically trigger non-compliance with permit if SWP3 not immediately updated?
- Decision from committee to remove this wording.
- Who does this language pertain to?
 - Only TMDL in effect is in Upper Roanoke basin.
- Does the TMDL specify a time frame for action?
 - Time frame covered under action plan which is in a subsequent step to TMDL adoption.
 - SWP3 must address any allocation under TMDL and be consistent with TMDL prior to issuing permit.
- TMDL language in B.3.d (page 4) changed to the following:

"Discharges to waters for which a "total maximum daily load" (TMDL) allocation has been established by the board and approved by EPA, unless the owner develops, implements, and maintains a storm water pollution prevention plan (SWPPP) that is consistent with the assumptions and requirements of the TMDL. This only applies where the facility is an identified source of the TMDL pollutant of concern. The SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric wasteload allocation that applies to discharges from the facility, the owner shall incorporate that allocation into the facility's SWPPP and implement measures necessary to meet that allocation."

9 VAC 25-151-60. Registration Statement

- Question concerning removal of notification to MS4 systems (A.5) and that this should remain in permit
 - Discussion from DEQ members of committee that this program was no longer administered by DEQ and that this is now a DCR requirement.
- Question concerning definition of "owner".
 - Clarification that VPDES regulation defines owner as operator
- Decision to add the following to B.1
 - a: Property owner of site;
 - b: Operator applying for permit coverage (if different from "a");
 - c: Responsible party requesting permit coverage, and who will be legally responsible for compliance with permit.
- Remove item 11 (Entity to whom...)

9 VAC 25-151-70. General Permit

- Part I.A, end of 2nd paragraph (p. 12): Remove "...provided that the sample is taken during a period that satisfies the monitoring period requirement for both types of monitoring".
- Part I.A.1.a (1) (p. 12): Consensus to remove "Unless another schedule is established in applicable sectors of Part IV....".
- Part I.A.1.a (5) (b) (p. 13): Change wording to read "Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data where available"
- Part I.A.1.b (1) (p. 14): Correct monitoring periods for benchmark monitoring:
 - July 1, 2009 – December 31, 2009
 - January 1, 2010 – December 31, 2010
 - January 1, 2011 – December 31, 2011
 - January 1, 2012 – December 31, 2012
 - January 1, 2013 – December 31, 2013
- Part I.A.1.b (1) (b) (p. 15): Change wording to read: "If a facility falls within a sector(s) required to conduct benchmark monitoring, monitoring shall be performed at least once during each of the first two, and potentially all, monitoring periods after the facility is granted..."
- Part I.A.1.b (2) (p. 15): Change wording to read: "...Waivers from benchmark monitoring are available to facilities whose discharges are below benchmark concentration values on an outfall by outfall basis. Sector-specific benchmark monitoring is not required to be conducted in subsequent monitoring periods during the term of this permit provided:"
- Part I.A.1.b (2), last paragraph (p. 15): Change wording to read: "The monitoring waiver may be revoked by the Department for just cause. The permittee will be notified in writing by the Department that benchmark monitoring requirements are again in force and will remain in effect until the permit's expiration date"
- Part I.A.1.b (5) (b) (p. 15): Change wording to read: "Why the outfalls are expected to discharge substantially identical effluents, including evaluation of monitoring data where available."
- Part I.A.1.c (1) (b) (p. 16): Remove language: "The effluent limitation monitoring year is from..."
 - Add monitoring period language for limitation monitoring.
 - July 1, 2009 – December 31, 2009
 - January 1, 2010 – December 31, 2010
 - January 1, 2011 – December 31, 2011
 - January 1, 2012 – December 31, 2012
 - January 1, 2013 – December 31, 2013
- Part I.A.1.c (2) (b) (p. 17): Remove language: "The coal pile runoff monitoring year is from..."

- Add monitoring period language for coal pile runoff monitoring.
 - July 1, 2009 – December 31, 2009
 - January 1, 2010 – December 31, 2010
 - January 1, 2011 – December 31, 2011
 - January 1, 2012 – December 31, 2012
 - January 1, 2013 – December 31, 2013
- Part I.A.1.c (3) (p. 17): Change language to read: "Facilities subject to Total Maximum Daily Load (TMDL) Waste Load Allocation"
- Part I.A.1.c (3) (b), first sentence (p. 17): Delete "the presence of".
- Part I.A.2.d (p. 18): Change language to: "Documentation explaining a facility's inability to obtain a sample, of no rain event, or of no "measurable" storm event must be maintained with the SWPPP."
- Part I.A.4.a, Table 70-4 (p. 19): Change language for numeric effluent limitations to read: "Submit results on a DMR by January 30th"
 - Change references to "TMDL Limitations" or "TMDL Effluent Limitations" to "TMDL Waste Load Allocations".
 - Add a box for the Part I.A.5.c Follow-up Monitoring.
- Part I.A.4.b (p. 19): Change language to read: "The permittee shall report at least the same number of significant digits as a numeric effluent limitation or TMDL waste load allocation for a given parameter; otherwise, at least two significant digits shall be reported for a given parameter. Regardless..."
- Part I.A.5.a, new "Corrective Action" section (handout, section goes on p. 19): Change language to read: "...If the benchmark monitoring result exceeds the benchmark concentration value for that parameter, the permittee shall review the SWPPP and modify it as necessary to address any deficiencies which caused the exceedance. Revisions to the SWPPP shall be completed within 30 days after an exceedance is discovered. When..."
- Part I.A.5.b, new "Corrective Action" section (handout, section goes on p. 19): Delete the paragraph beginning with "Failure to undertake the necessary corrective actions..."
- Part I.A.5.c, new "Corrective Action" section (handout, section goes on p. 19): Change language in 2nd paragraph to read: "The follow-up monitoring data must be submitted to the Department no later than 30 days after the results are received. If the follow-up..."
 - Change language in 3rd paragraph, 1st sentence to read: "...an Exceedance Report shall be submitted to the Department no later than 30 days after the follow-up monitoring results are received. The following..."
 - Change language in 3rd paragraph, last sentence to read: "Additional follow-up monitoring shall be continued at an appropriate frequency, but no less often than quarterly, until the discharge no longer exceeds the standard."
 - Delete the 4th paragraph.
- Part I.B.7 (p. 21): Change language to read: "Discharge to waters subject to TMDL waste load allocations. Facilities that are an identified source of the specified pollutant of

concern to waters for which a "total maximum daily load" (TMDL) waste load allocation has been established by the board and approved by EPA prior to the term of this permit shall incorporate measures and controls into the SWPPP required by Part III that are consistent with the assumptions and requirements of the TMDL. The Department will provide written notification to the owner that a facility is subject to the TMDL requirements. The facility's SWPPP shall specifically address any conditions or requirements included in the TMDL that are applicable to discharges from the facility. If the TMDL establishes a specific numeric waste load allocation that applies to discharges from the facility, the owner shall..."

- Part I.B.9 (p. 21): Change language to read: "...The permittee may add new and/or delete existing outfalls..."

9 VAC 25-151-80. Storm Water Pollution Prevention Plan

- Part III.B.6.b (5), 2nd paragraph (p. 31): Change language to read: "The inspection frequency shall be specified in the plan based upon a consideration of the level of industrial activity at the facility, but shall be at a minimum of quarterly, unless more frequent intervals are specified elsewhere in the permit, or written approval is received from the department for less frequent intervals. The requirement for routine facility inspections is waived for facilities that have maintained an active E3/E4 status."
 - At the June TAC meeting, it was decided that inspections should be increased from quarterly to monthly. There was subsequent group discussion at the August TAC meeting pertaining to the frequency of inspections and whether this should go back to being quarterly rather than monthly.
 - Those facilities that are already being compliant and doing quarterly inspections will step up and perform monthly inspections. Those facilities that are not completing quarterly inspections will not put forth effort to comply with monthly. Are we punishing the good players?
 - The TAC decided to reinstate quarterly site inspections unless Part IV specifies a more stringent inspection schedule.
- Part III.E.1 (p. 33): Change language to read: "Scope of compliance evaluation. Evaluations shall include all areas where industrial materials or activities are exposed to storm water, as identified in Part III.B.3. The personnel shall evaluate:"
- Part III.E.1.b (p. 33): Change language to read: "Leaks or spills from industrial equipment, drums, barrels, tanks or other containers that have occurred within the past 3 years;"
- Part III.E.1.h (1), 1st sentence (p. 33): Change language to read: "The SWPPP must include an annual certification..."
 - Last sentence: Change language to read: "The certification shall include:"
 - Delete Part III.E.1.h.2.
 - Change numbering of E.1.h.3 to E.1.h.2. Change language to read: "If the permittee is unable to provide the required certification, the director shall be notified no more than 14 days after the completion of the annual site compliance evaluation.

- Change numbering of E.1.h.4 to E.1.h.3 (p. 34). Delete the 2nd sentence.
- Part III.E.1, last paragraph (p. 34): Make this subsection E.1.i

9 VAC 25-151-90. Sector Specific Requirements

- Add a sentence to the end of the first paragraph (page 35): "All numeric effluent limitations and benchmark monitoring concentrations reflect two significant digits unless otherwise noted."
- Sector K (p. 55): Add footnote to Table 180-1 noting effluent limitations with three significant figures.
- Sector L, D.2.c (2) (p. 57): Change language to read: "Inspections of inactive sites. Inactive landfills, open dumps, and land application sites shall be inspected at least quarterly."
- Discussion from committee concerning requirements for MSWLF and CDD landfills and the applicability of Tables 190-1 and 190-2.
 - NRO commented, based on past correspondence with CO, that effluent limits are only being applied to MSWLF and not to CDD landfills.
 - Burt will double check on this and provide further information. *(The effluent limits DO apply to contaminated storm water discharges at CDD landfills and at industrial landfills [with the 4 exceptions (E1-E4) listed in Sector L of the permit]. CDD landfills and industrial landfills fall under the 40 CFR 257 requirements. Burt)*
- Sector M, B.2.a (p. 59): Change language to read: "Spill and leak prevention. All vehicles that are intended to be dismantled shall be properly drained of all fluids prior to being dismantled or crushed, or other equivalent means shall be taken to prevent leaks or spills of fluids."
- Sector M, B.2.b (p. 59): Change language to read: "...Any equipment containing oily parts, hydraulic fluids, any other types of fluids, or mercury switches shall be inspected at least quarterly (four times per year) for signs of leaks. All vessels and areas where hazardous materials and general automotive fluids are stored, including, but not limited to, mercury switches, brake fluid, transmission fluid, radiator water, and antifreeze, shall be inspected at least quarterly for leaks."
- Sector P (p. 68): Discussion pertaining to TPH benchmark concentration.
 - No value for this benchmark concentration from EPA.
 - Staff picked this value as this number appears in other general permits currently being used by DEQ.
 - Committee had no objections to the use of 15 mg/L for the TPH benchmark concentration value.
 - The TAC recommended that we specify the method to analyze for TPH, and that we use the same language that was used for the Concrete Products general permit.

No further TAC meetings are proposed at this time.