

**VIRGINIA POLLUTION ABATEMENT GENERAL PERMIT &
VIRGINIA POLLUTION ABATEMENT PERMIT REGULATION
AMENDMENTS RELATED TO ANIMAL FEEDING OPERATIONS
TECHNICAL ADVISORY COMMITTEE (TAC)**

**DRAFT MEETING NOTES
TAC MEETING – THURSDAY, DECEMBER 20, 2012
DEQ PIEDMONT REGIONAL OFFICE TRAINING ROOM**

Meeting Attendees

<i>TAC MEMBERS</i>	<i>TECHNICAL SUPPORT</i>	<i>SUPPORT STAFF</i>
Tony Banks - VA Farm Bureau (Alternate for Wilmer Stoneman)	Bobby Long - DCR	Bill Norris - DEQ
Betsy Bowles - DEQ	Darrell Marshall - VDACS	Neil Zahradka - DEQ
Jason Carter - VA Cattleman's Association	<i>INTERESTED PARTIES</i>	<i>OTHER DEQ STAFF</i>
Katie Frazier - VA Agribusiness Council	Katie Fraser - Virginia Agribusiness Council	Melanie Davenport
Ann Jennings - Chesapeake Bay Foundation	Kathleen VanDerHyde - Dairy Producer	Gary Flory
Jeff Kelble - Shenandoah Riverkeeper		Kathleen O'Connell
Adrienne Kotula - James River Association (Alternate for Jamie Brunkow)		Kathryn Perszyk
Blair Kruz - Virginia Agribusiness Council		
John Parker - VA Pork Industry Board		
Eric Paulson - VA Dairymen's Association		
Roy VanDerHyde - Dairy Producer		

NOTE: TAC members not in attendance included the following: Bill Bailey – Swine Producer; Hobey Bauhan - VA Poultry Federation; Jamie Brunkow - James River Association; Wilmer Stoneman - VA Farm Bureau.

1. Welcome & Introductions (Bill Norris):

Bill Norris, Regulatory Analyst with the DEQ Office of Regulatory Affairs welcomed all of the meeting participants. He asked for introductions of all of the members of the VPA General Permit & VPA Permit Regulation Amendments Related to Animal Feeding Operations Technical Advisory Committee and other meeting attendees. He asked for all attendees to sign the sign-in sheet so that we could have a record of attendance.

He noted that he had received correspondence from the following TAC members:

- Hobey Bauhan - He had a conflict and will not be able to attend.
- Jamie Brunkow - He will be unable to attend the meeting, but has asked Adrienne Kotula to attend in his place. A copy of his comments related to inclusion of BMPs required for AFO permittees was distributed to the group. His comments included: "*...JRA would support inclusion of BMPs required for AFO permittees that would facilitate implementation of practices already included in Virginia's WIP. Those practices that have the greatest need for more implementation, based on the targets set in the WIP (i.e., exclusion fencing), make the most sense to set as requirements for AFO permit holders. Livestock exclusion fencing particularly makes sense because 100% funding is available for the practice...*"

2. Items from Last Meeting (Meeting Notes – Comments/Changes) (Bill Norris):

Bill Norris asked if any member of the TAC had any comments or edits related to the Meeting Notes from the November 26th meeting. He noted that he had received one set of comments from VDACS clarifying the comments made during the presentation by Don Delorme. Those edits have been incorporated into a revised set of meeting notes.

It was noted that due to the timing of the distribution of the meeting materials, including the meeting notes that there may not have been sufficient opportunity for TAC members to read over the materials in depth to be able to provide informed comments.

ACTION ITEM: Staff will resend a revised set of meeting notes as well as a resend of the meeting materials related to the proposed AFO amendments to the TAC for their comments and will provide a specified time for return of comments based on the regulatory process schedule needed to present the proposed amendments to the SWCB at their March 14th - 15th 2013 meeting.

NOTE: These materials were resent to the AFO TAC distribution lists on Friday, December 21, 2012 with a requested date of January 18th for return of comments.

Some questions were raised related to receipt of the meeting materials by all members of the TAC and members of the staff who were at the November meeting.

ACTION ITEM: Staff will review the distribution lists to make sure that all members have been included in the mailings and that the materials are distributed to appropriate department program staff. NOTE: Staff confirmed that all of the members of the TAC are included on the distribution lists. The lists of department staff have been revised to include those that have been attending the TAC meetings.

3. Discussion of Potential Amendments to the VPA General Permit Regulation for AFOs - Amendments to cover operations which may use off-site generated materials to feed a digester or other manure treatment technologies - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles presented the proposed amendments to Chapter 192 related to use of off-site generated materials to feed a digester or other manure treatment technologies. The proposed amendments included the following:

- Page 17 of 50: 9VAC25-192-70 Part I B 6 is new: "6. For new waste storage or treatment facilities, the facilities shall be constructed, operated and maintained in accordance with the applicable practice standard adopted by the Natural Resources Conservation Service of the United States Department of Agriculture and approved by the department."
- Page 17 of 50: 9VAC25-192-70 Part I B 7 is original language that has been moved from the original B 10: "7. The permittee shall notify the department's regional office at least 14 days prior to: (i) animals being initially placed in the confined facility or (ii) utilization of any new waste storage or treatment faculties."

- Page 18 of 50: 9VAC25-192-70 Part I B 10 is new: "10. When wastes are treated by a digester or other manure treatment technologies, the waste treatment process shall be approved by the department and shall be managed by a facility covered under this permit and in accordance with the following conditions:
 - a. All treated wastes generated by a digester or other manure treatment technologies must be managed through an approved nutrient management plan, or transferred to another entity in accordance with animal waste transfer requirements in Part 1 B 16 and 17.
 - b. When a facility covered under this permit generates a treated waste from animal waste and other feedstock, the permittee shall maintain records related to the production of the treated waste.
 - (1) If off-site wastes are added to generate the treated waste, the permittee shall record the following items:
 - (a) The amount of waste brought to the facility; and
 - (b) From whom and where the waste originated.
 - (2) For all treated wastes generated by the facility, the permittee shall record the following items:
 - (a) The amount of treated waste generated;
 - (b) The nutrient analysis of the treated waste; and
 - (c) The final use of the treated waste.
 - (3) Permittees shall maintain the records required by Part I B 10 b (1) and (2) shall be maintained on site for a period of three years. All records shall be made available to department personnel upon request. "

Discussions by the TAC included the following:

- What records related to a contracted hauler is the permittee responsible for? Is it just "the hauler delivered this amount" or does it include records on "the hauler picked up this amount" from specific sources or sites? *Staff Response: We need to have information on what is going into the digester and how much. A hauler should know what is being hauled so that the information can be provided to the permittee.*
- Who is going to be looking at the records that are required to be maintained? *Staff Response: It will be the same inspectors currently looking at the facilities.*
- Is there a requirement for a date as to when these materials were received? *Staff Response: That could be added. It might be good to have some records related to "within the Calendar Year". Trying to mirror the Poultry Regulations - don't want to overdo the record keeping requirements but it is probably a good idea to include a requirement related to "date of transfer" and "amount of the transferred materials".*
- It would be helpful to include a date in the requirements.
- Page 19 of 50: 9VAC25-192-70 Part I B 11 is new: "11. Animal waste generated by this facility shall not be applied to fields owned or under the operational control of either the permittee or a legal entity in which the permittee has an ownership interest unless the fields are included in the facility's approved nutrient management plan."

- Definitions: Definition of "animal waste" - Page 2 of 50 - "Animal waste" means liquid, semi-solid, and solid animal manure, poultry waste and process wastewater, compost or sludges associated with livestock and poultry animal feeding operations including the final treated wastes generated by a digester or other manure treatment technologies."

Discussions by the TAC included the following:

- In number 10 on page 18 of 50 it states that "the waste treatment process shall be approved by the department". What is meant by this? How is this done? Under what standards will this be approved. *Staff Response: We would make it clear in guidance the conditions under which the waste treatment process would be approved. Staff would work closely with the Solid Waste Program staff in the approval of these processes.*
- It needs to be clear to the public how these decisions are made. *Staff Response: Over the last 10 years there has been a lot of interest in alternative treatment technologies and other ways to handle manure. The general permit was very restrictive over the last 10 year cycle and looked at only conventional methods. Any alternative technologies proposed in the past looked at the use of "individual permits". In some cases that may continue to be the best vehicle to use but in other cases (i.e., use of a digester) the treatment methodology and the way you handle the waste really aren't that different so that the constraints within the general permit still fit. But we don't know, since this is a 10 year permit, what alternative technologies might be available over the next 10 years. The use of the phrase "approved by the department" is used to offer some flexibility for use of the general permit instead of an individual permit.*
- It is not clear under what framework under which these decisions would be made. There needs to be clarification in the regulations as to how this approval process would work - it shouldn't be just addressed in guidance.
- Item number 8 on page 18 of 50, it states: "For waste that is not stored under roof, the storage site must be at least 100 feet from any surface water, intermittent drainage, wells, sinkholes, rock outcrops, and springs." Does this mean that waste that is stored under a roof doesn't need to meet this 100 foot buffer requirement? *Staff Response: There are already siting requirements for lagoons or pits or other types of waste storage that are included in this permit. This situation wasn't previously addressed. This is designed to specifically address materials that could be stacked and not "liquids". This is an item that was also added to the "poultry waste" regulation. This is standard language that NRCS and DCR use. This is for the instance where waste is stored in the field prior to application.*
- Why are there instances where you can go within the 100 foot buffer if the waste is stored under a roof? It was noted that having a roof changes the "potential for runoff". *Staff Response: The regulations require that the facility be constructed so that there is no stormwater runoff. This language is consistent with DCR's Nutrient Management Plan requirements related to waste storage.*

- When we are discussing "waste" are we only talking about animal waste? *Staff Response: This could also be the off-site materials that are being brought in to "feed a digester", so this could include more than just "animal waste".*
- If we are talking about more than just "animal waste" should "waste" be defined? *Staff Response: The original language referred to just "waste". "Waste" is a definition in another regulation. If we do a wholesale replacement of the term "waste" with "animal waste" then we might change the meaning of some of the current requirements. If we were to make this change we need to then consider what we are excluding by making that change. "Solid waste" is defined in the "Waste regulations".*

ACTION ITEM: Staff will make the necessary changes to be clear as to what this restriction applies to. We plan to make sure what is appropriate: "waste" or "animal waste". We will need to look over the use of the terms to make sure it is clear in the regulations.

ACTION ITEM: Staff asked for input from the TAC as to the preferred use of the terms "animal waste" or "waste". TAC members were asked to provide their comments to Bill Norris regarding use of these terms.

- It seems to be clear that no matter whether it is "animal waste" or "solid waste" that is being used in the process that you need to keep all wastes out of the 100 foot buffer area.
- The NRCS standards are fairly specific about the placement and location of wastes and facilities.
- *Staff Comment: We recognize the resistance to the use of the term "waste" for a residual product that has "value" to encourage recycling, but the statute uses the term "waste".*

4. Discussion of Potential Amendments to the VPA General Permit Regulation for AFOs - Amendments to cover the activities related to animal waste transfer - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles presented the proposed amendments to Chapter 192 related to animal waste transfers. The proposed amendments included the following:

- Definitions - Page 2 of 50 - Definition of "animal waste end-user" proposed: "Animal waste end-user" means any recipient of transferred animal waste who stores or who utilizes the waste as fertilizer, fuel, feedstock, livestock feed, or other beneficial use for an operation under his control.
- Definitions - Page 2 of 50 - Definition of "beneficial use" proposed: "Beneficial use" means a use that is of benefit as a substitute for natural or commercial products and does not contribute to adverse effects on health or environment."
- Definitions - Page 2 of 50 - Definition of "nutrient management plan" proposed: "Nutrient management plan" or "NMP" means a plan developed or approved by the Department of

Conservation and Recreation that requires proper storage, treatment, and management of animal waste and limits accumulation of excess nutrients in soils and leaching or discharge of nutrients into state waters; except that for a animal waste end-user who is not covered under the general permit, the requirements of 9VAC25-192-90 constitute the NMP."

- Page 4 of 50 - 9VAC25-192-20 A has been revised to clarify the requirements.
- Page 4 of 50 - 9VAC25-192-25. Duty to comply: This is a new section that has been added to the regulations: 9VAC25-192-25. Duty to comply.

A. Any person who manages or proposes to manage pollutants regulated by 9VAC25-192 shall comply with the applicable requirements of this chapter.

B. In order to manage pollutants from an animal feeding operation, the owner shall be required to obtain coverage under the Virginia Pollution Abatement (VPA) general permit or an individual VPA permit provided that the owner has not been required to obtain a Virginia Pollutant Discharge Elimination System (VPDES) permit. The owner shall comply with the requirements of this chapter and the permit.

C. Any animal waste end-user shall comply with the technical requirements outlined in 9VAC25-192-80 and 9VAC25-192-90.

- *Staff Comment: There is still some confusion over the use of the terms "person" or "owner" or "operator" or "permittee". We need to be using consistent language in the regulations.*

ACTION ITEM: Staff will go back through the proposed amendments to clarify the use of the terms "person"; "owner"; "operator"; and "permittee".

- Page 5 of 50 - 9VAC25-192-50. Authorization to manage pollutants: A title or tag line has been added to 9VAC25-192-50 A to clarify the requirements.
- Page 5 of 50 - 9VAC25-192-50 A 2: 2. The operation of the animal feeding operation shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law. There shall be no point source discharge of wastewater to surface waters of the state except in the case of a storm event greater than the 25-year, 24-hour storm. Agricultural stormwater discharges are permitted. Domestic sewage shall not be managed under this general permit. ~~or industrial~~ Industrial waste shall not be managed under this general permit, except for wastes that have been approved by the department and are managed in accordance with 9VAC25-192-70; There had been previous discussion about removing the term "industrial" but based on a review of the statute and additional discussions the use of the term will be retained.
- Page 6 of 50 - This language has been cleaned up to clarify the requirements.
- Page 7 of 50 - 9VAC25-192-50 A 6 has been revised to clarify that the training is required by statute - the specific Code reference has been added and the section language revised to clarify the requirements.

- Page 7 of 50 - 9VAC25-192-50 B: A new section is being proposed to address specific requirements for "animal end-users": B. Animal waste end-user. Any animal waste end-user shall comply with the requirements outlined in 9VAC25-192-80 and 9VAC25-192-90.

1. When an animal waste end-user does not comply with the requirements of 9VAC25-192-80 and 9VAC25-192-90, the department may choose to do any or all of the following:

- a. Initiate enforcement action based upon the violation of the regulation;
- b. Require the animal waste end-user to register for coverage under the general permit;
- c. Require the animal waste end-user to apply for the VPA individual permit; or
- d. Take other actions set forth in the VPA Permit Regulation (9VAC25-32).

2. Any animal waste end-user governed by this general permit is hereby authorized to manage pollutants relating to the utilization and storage of animal waste provided that the animal waste end-user files the registration statement of 9VAC25-192-60, complies with the requirements of 9VAC25-192-70, and:

- a. The animal waste end-user has not been required to obtain a VPA individual permit according to subdivision 2 of 9VAC25-32-260;
- b. The activities of the animal waste end-user shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law (§ 62.1-44 et seq. of the Code of Virginia). There shall be no point source discharge of wastewater to surface waters of the state except in the case of a storm event greater than the 25-year, 24-hour storm. Agricultural storm water discharges are permitted. Domestic sewage shall not be managed under this general permit. Industrial waste shall not be managed under this general permit, except for wastes that have been approved by the department and are managed in accordance with 9VAC25-192-70;
- c. The animal waste end-user shall obtain Department of Conservation and Recreation approval of a nutrient management plan for land application sites where animal waste will be utilized or stored and managed prior to the submittal of the registration statement. The animal waste end-user shall attach to the registration statement a copy of the approved nutrient management plan and a copy of the letter from the Department of Conservation and Recreation certifying approval of the nutrient management plan that was developed by a certified nutrient management planner in accordance with § 10.1-104.2 of the Code of Virginia. The animal waste end-user shall implement the approved nutrient management plan; and
- d. As required by § 62.1-44.17:1.F of the Code of Virginia, each permitted animal waste end-user shall complete a training program offered or approved by the department within one year of filing the registration statement for general permit coverage. All permitted animal waste end-users shall complete a training program at least once every three years.

Discussions by the TAC included the following:

- Under 9VAC25-192-20 reference is made specifically to "a liquid manure collection and storage system" but under the definitions it doesn't appear to limit it to "liquid manure". *Staff*

Response: That is spelled out in the statute. This wording specifies that in order to fall under the requirements of this general permit that an operation would have to meet the "definition of an AFO"; "have 300 or more animal units" and "utilize a liquid manure collection and storage system". We are defining what kind of facilities can be covered under the general permit and therefore have a duty to comply with the requirements of this General Permit.

- The group discussed the different types of animal feeding operations that would fall under the requirements of the General Permit and those that would fall under the requirements of the Individual Permit.
- In reference to the statement in 9VAC25-192-50 A 2 related to "wastes that have been approved by the department and are managed in accordance with 9VAC25-192-70": It would be helpful to define what you mean by "wastes". What kind of wastes would likely be approved by the department? Right now it is not real clear.
- The language has been changed to say that DEQ is responsible for the training and not DCR. Is that accurate. *Staff Response: That change was also made in the Poultry Regulations. We are trying to make the regulations consistent. DEQ is required under its statutes to make sure that the training is available and adequate. DEQ consults with DCR to make sure that the training is available and adequate but it is not common practice to put requirements on another state agency or even your own agency in regulations. Historically there have been personnel changes and the priority has been for an agency to implement their own regulations and requirements and not those of another agency, so it makes since to include the requirements under both agencies.*
- There are some inconsistencies with this practice - in the Sludge regulations there are requirements to follow DCR's NMP requirements. *Staff Response: That is because of the language used in the statute.*
- The definition of "animal waste end-user" just refers to "transferred animal waste". It doesn't say from a "permitted facility". Should this read from a "permitted facility"? *Staff Response: Staff will go back through the proposed language to make sure that it is consistent with the requirements spelled out for "Poultry End-Users". These definitions are specific to these regulations. These regulations discuss thresholds. The storage requirements do not include thresholds.*
- The group discussed the end-user requirements and when they applied and to whom. *Staff Response: The current wording follows the requirements identified in the Poultry Regulations for end-users. The way it is currently worded anybody who receives transferred animal waste whether from a permitted facility or not, has to follow the end-user requirements. The difference that will need to be considered is that the majority of poultry operations are permitted while the majority of animal waste operations are not. This could potentially impact a larger percentage of operations. The way it is written it applies to any waste transfers.*

5. **POLL OF TAC:** A poll of the TAC was taken regarding the concept of any waste transfers having to comply with the end-user requirements whether from a permitted operation or not. Comments made included the following:

- If the transferred materials originate from a permitted facility then it needs to follow the end-user requirements, if it is from an unpermitted operation it shouldn't have to comply.
- The term "any" is very broad, there should be limits.
- There needs to be clarification in the definition of "animal waste end-user" as to who this applies to and what the requirements are if the materials come from a permitted facility.
- If you leave it very broad then anyone receiving a pick-up load of material would have to comply with the requirements.
- Clarification is needed. The goal should be to address the materials from permitted facilities not "all" facilities, just on permitted facilities.
- The language needs to consider a "good neighbor" concept where neighboring farms are transferring small amounts of materials that should not have to follow end-user requirements.
- Need to eliminate possible and unnecessary collateral impacts and regulations.
- Should add the word "permitted" and move on.
- Clarity and consistence with other regulations is important.
- Why were all facilities/operations included in the poultry regulations? *Staff Response: There were so few facilities that were not already permitted that there wasn't a large impact envisioned.*
- There was recognition in the poultry regulations related to soil phosphorus and there are similar issues with dairy manures. Would like it to be consistent with the way it is handled in the poultry regulations. Users shouldn't have an issue with managing manure so that it doesn't violate Water Control Law or didn't violate any nutrient management principles. *Staff Response: The reasons way we are looking at end-user and transfer requirements is that with poultry litter that was an issue from the very beginning. There was poultry litter transfer going on from the beginning of the development of the poultry regulation. It was assumed that there was going to be transfer of poultry litter. With liquid wastes, dairy and swine predominately, there is very little transfer that occurs. In this case we are trying to encourage responsible transfer where we can to help out those facilities that have high phosphorus levels and that need to expand the area where those manures can be used. The reasons why we are developing end-user requirements are different. For poultry it was acknowledged that there were issues with end-use of poultry litter. (HB1207 acknowledged that poultry litter was being transferred.) In the discussions that led to the development of the poultry litter regulations and end-user requirements there was an acknowledgement that there were some mismanagement issues that needed to be addressed. In this case we are trying to say that there is not widespread transfer of livestock waste, but when it is transferred we want it to be used responsibly.*

- Development of minimum requirements is appropriate. Don't see why you would treat manure from a "permitted" operation differently than manure from an "unpermitted" operation if you are trying to control pollution.
- This discussion sheds light on the differences and irregularity within the industry of who is regulated and who is not. It is hard to have one set of rules be replicated and apply to the different sectors of the industry. If this is handled as only addressing waste transferred from permitted facilities it is a completely unverifiable and unenforceable aspect of this program. Unless you are going to have staff that is going to follow-up on each of these transfers and ask where they got this and whether it was from a permitted or unpermitted facility, this requirement is not meaningful. Don't see how you would manage a program if it is only limited that transfers off of a permitted operation. *Staff Response: We need to clarify what it applies to. Should it apply to any transfer of material whether from a permitted facility or not?*
- If you limit it to permitted operations, you render this management meaningless. There is not adequate staff at DEQ to have an opportunity to really oversee those transfers in that fine a detail (i.e., being able to trace back where the manure came from). This is not enforceable if you limit to only transfers from permitted facilities. *Staff Response: There are requirements for the permitted facilities in the General Permit contents that require the permittee to record who, what and how just like the poultry waste regulations. Our inspectors who go out to those permitted facilities would see those records and that is where the end-users would be identified.*
- Would the inspectors then inspect all of the identified end-users? *Staff Response: They can but don't have to. We acknowledged with the poultry end-user requirements that we didn't have the staff to inspect every end-user of poultry litter because we were talking about a lot of end-users. We would need to look closely into our inspection strategy with this program to look at the recipients of transferred livestock waste. We don't know at this point how many end-users of transferred livestock manure there are or could be. There may be a relatively small number of end-users. It will likely be easier for DEQ to inspect a larger percentage of livestock waste end-users than poultry litter end-user because there is likely to be fewer in number.*
- With the end-user regulations, how does someone know that they are regulated as an end-user? *Staff Response: They would be receiving information from the permitted livestock farm when they receive the manure that they must follow these requirements when you receive this manure. This raises an issue that if they were receiving manure from an unpermitted operation they would not be receiving this information about the end-user requirements. There has been a fact sheet developed for the poultry regulations. A similar fact sheet would be developed for transfer of livestock manure. Information is also provided on the DEQ website and through training opportunity.*

- What kind of education process would be used to inform the users and the public? *Staff Response: There will be some significant challenges to the education process as transfers from both permitted and unpermitted operations increase.*
- Why does DEQ think that there are going to be more transfers? *Staff Response: As more and more attention is being paid to nutrient management planning and phosphorus levels there is going to be a greater need to ensure that the manure applications are spread over a larger area.*
- When comparing this to poultry litter, whereas the majority of poultry litter is transferred there is such a small amount of dairy waste that is transferred. There is an existing program within the Commonwealth (the Agriculture Stewardship Act) that deals with manure generated on smaller operations where there is a misapplication. It is hard to compare the two programs related to the amount or volume of transfers involved and the percentage of operations that actually are involved in the transfers. It looks like this regulation is attempting to regulate all transfers of materials rather than just those from permitted operations. The original intent was to just address the transfers from permitted operations.
- From a historical perspective it was assumed that most of the poultry litter being transferred was from permitted operations. Didn't realize until today's discussions that the requirements would apply to non-permitted operations.
- Understood that the reason that we were discussing transfers and what to do with them was to deal with some of the issues with the alternative use of manure so that there was a clear tracking of where it was coming from and where it was going to. So that you could meet some of the requirements for waste management. *Staff Response: That was part of the reason for addressing transfers; the other part of it was to make sure that people are able to manage their manure in a more effective and efficient way by transferring the material offsite. Right now they are essentially restricted to putting it on their own property. As land gets tighter, they need to have the ability to move it off the site and not be as concerned with their storage of the material into jeopardy, i.e., not having enough storage capacity or not having enough land to apply the materials to. This gives the ability to be able to move the manure where it can be used and not be constrictive on that operation. Puts the permittee in a better position to manage their manure. This enables DEQ to follow the trail from each permitted facility of where the manure is being transferred.*
- In the future we are going to see fertilizer prices go higher and are going to see in the animal industries that the value of manures is going to be realized. What we used to think of as a "waste material" is going to be considered more of as a "resource" that has a tremendous value. There are likely to be a lot more transfers in the future.

Staff Comment: Clearly on this issue we do not have a consensus on this issue. We will need to look at closely in what goes into the proposed language. We have a number of things to consider. We will need to make it clear who this applies to. There are some things that are not consistent with the Poultry Regulations in the way that the two systems are designed.

6. Continued Discussion of Potential Amendments to the VPA General Permit Regulation for AFOs - Amendments to cover the activities related to animal waste transfer - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles presented additional proposed amendments to Chapter 192 related to animal waste transfers. These additional proposed amendments included the following:

- Continuing the discussions related to Page 7 of 50 – 9VAC25-192-50. Authorization to manage pollutants - Section B addressing authorization for management of pollutants for animal waste end-user. End-user would have to comply with the requirements of 9VAC25-192-80 and 9VAC25-192-90 which are new proposed sections of the regulations. These are much like the poultry end-user requirements.
- 9VAC25-192-50 B 1 states: 1. When an animal waste end-user does not comply with the requirements of 9VAC25-192-80 and 9VAC25-192-90, the department may choose to do any or all of the following: a. Initiate enforcement action based upon the violation of the regulation; b. Require the animal waste end-user to register for coverage under the general permit; c. Require the animal waste end-user to apply for the VPA individual permit; or d. Take other actions set forth in the VPA Permit Regulation (9VAC25-32).
- Page 8 of 50 contains the following under B 2 b. The activities of the animal waste end-user shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law (§ 62.1-44 et seq. of the Code of Virginia). There shall be no point source discharge of wastewater to surface waters of the state except in the case of a storm event greater than the 25-year, 24-hour storm. Agricultural storm water discharges are permitted. Domestic sewage shall not be managed under this general permit. Industrial waste shall not be managed under this general permit, except for wastes that have been approved by the department and are managed in accordance with 9VAC25-192-70;
- Page 9 of 50 contains language pertaining to continuation of permit coverage (this language is being put in all of DEQ's permits and general permits) under C as follows: C. Continuation of permit coverage. 1. Any owner that was authorized to manage pollutants under the general permit issued in 2004, and that submits a complete registration statement on or before November 15, 2014, is authorized to continue to manage pollutants under the terms of the 2004 general permit until such time as the board either: a. Issues coverage to the owner under this general permit; or b. Notifies the owner that coverage under this permit is denied. 2. When the permittee that was covered under the expiring or expired general permit has violated or is violating the conditions of that permit, the board may choose to do any or all of the following: a. Initiate enforcement action based upon the expiring or expired general permit; b. Issue a notice of intent to deny coverage under the reissued general permit. If the general permit coverage is denied, the owner would then be required to cease the activities authorized by the expiring or expired general permit or be subject to enforcement action for operating without a permit; c. Issue an individual permit with appropriate conditions; or d. Take other actions set forth in the VPA Permit Regulation (9VAC25-32).
- 9VAC25-192-60 addresses the requirements for registration statements. The proposed amendments are to clarify requirements.

- On page 11 of 50 the language in 9VAC25-192-60 A 9 was originally part of 9VAC25-192-60 A 8 but has been separated for clarification of the requirements.
- Page 12 of 50 includes the new proposed registration requirements for animal waste end-users similar to what was included in the poultry regulations for poultry waste end-users. The proposed language includes the following: B. The animal waste end-user. In order to be covered under the general permit, the animal waste end-user shall file a complete VPA General Permit Registration Statement in accordance with this chapter. The registration statement shall be deemed complete for registration under the VPA General Permit if it contains the following information: 1. The animal waste end-user's name, mailing address, email address (if available) and telephone number; 2. The name (if applicable) and location of the facility where the animal waste will be utilized, stored, or managed; 3. The best time of day and day of the week to contact the animal waste end-user; 4. If the facility has an existing VPA or VPDES permit number, the permit number; 5. If confined animals are located at the facility, indicate the type or types of animals (dairy cattle, slaughter and feeder cattle, swine, other) and the maximum number and average weight of the type or types of animals; 6. A copy of the nutrient management plan approved by the Department of Conservation and Recreation; 7. A copy of the Department of Conservation and Recreation nutrient management plan approval letter that also certifies that the plan was developed by a certified nutrient management planner in accordance with § 10.1-104.2 of the Code of Virginia; and 8. The following certification: "I certify under penalty of law that all the requirements of the board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."
- Page 13 of 50 – 9VAC25-192-60 B has been revised to C due to the inclusion of the new language proposed as 60 B and the reference has been corrected.

Discussions by the TAC included the following:

- Should B 1 be a "shall" instead of "may"? *Staff Response: "May" was used to allow for options for the Department.*
- In 9VAC25-192-60 A 7 there is a requirement for a "Local Government Ordinance Form". Would the permittee have to take this form to Zoning or a County Administrator for approval? *Staff Response: It would depend on how the local government is organized – each county is different, it could be county zoning or planning.*
- Why is the LGOF form included? Why is it required in a DEQ regulation? This is strictly a local land use concern. *Staff Response: It is required by the statute. The statute is not consistent*

over all pollutant management activities but to have coverage under this general permit, a "Local Government Ordinance Form" has to be submitted.

7. Continued Discussion of Potential Amendments to the VPA General Permit Regulation for AFOs - Amendments to cover the activities related to animal waste transfer - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles continued the presentation of additional proposed amendments to Chapter 192 related to animal waste transfers. These additional proposed amendments included the following:

- Page 13 of 50 – 9VAC25-192-70 specifies the contents of the general permit. Language is being proposed to add "animal end-users" to this section.
- Pages 14 of 50 – Specific titles identifying the content of each part of the general permit are being proposed for addition to the section.
- Page 22 of 50 includes the proposed additions that address animal waste end-users and transfer of materials. These additions mirror what was done in the poultry regulations. B 16 reads as follows: 16. Animal waste may be transferred from a permittee to another person without identifying the fields where such waste will be utilized in the permittee's approved nutrient management plan if the following conditions are met:
 - a. When a permittee transfers to another person more than 10 tons of solid or semi-solid animal waste (solid or semi-solid animal waste contains less than 85 percent moisture) or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85 percent or more moisture) in any 365-day period, the permittee shall provide that person with:
 - (1) Permittee's name, address, and permit number;
 - (2) A copy of the most recent nutrient analysis of the animal waste; and
 - (3) A fact sheet.
 - b. When a permittee transfers to another person more than 10 tons of solid or semi-solid animal waste (solid or semi-solid animal waste contains less than 85 percent moisture) or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85 percent or more moisture) in any 365-day period, the permittee shall keep a record of the following:
 - (1) The recipient name and address;
 - (2) The amount of animal waste received by the person;
 - (3) The date of the transaction;
 - (4) The nutrient analysis of the animal waste; and
 - (5) The signed waste transfer records form acknowledging the receipt of the following:
 - (a) The animal waste;
 - (b) The nutrient analysis of the animal waste; and

(c) A fact sheet.

c. When a permittee transfers to another person more than 10 tons of solid or semi-solid animal waste (solid or semi-solid animal waste contains less than 85 percent moisture) or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85 percent or more moisture) in any 365-day period, the permittee shall keep a record of the following:

(1) The locality in which the recipient intends to utilize the animal waste (i.e., nearest town or city and zip code); and

(2) The name of the stream or waterbody, if known, to the recipient that is nearest to the animal waste utilization or storage site.

d. Permittees shall maintain the records required by Part I B 16 a, b, and c for at least three years after the transaction and shall make them available to department personnel upon request.

- The thresholds for transfer amounts and the record keeping requirements are identified in B 16 as identified above. This proposed language also provides a percent moisture calculation for solid or semi-solid animal waste.
- Page 34 of 50 is Part III of the permit and identifies the pollutant management and monitoring requirements for animal waste end-users. These specific requirements mirror the other contents for the owner of an AFO with just some wording differences.
- Page 21 of 50 deals with transfer of animal waste generated by a facility and the certification requirements under the VDACS Certification Program for fertilizers and soil amendments and the need to maintain records of those transferred amounts if above the threshold limits.
- The VDACS Certification Program process was briefly reviewed and summarized for the group.

Discussions by the TAC included the following:

- The group discussed the information requirements and the availability of the information being requested.
- Was there any attempt to make sure that the 10 tons and 6,000 gallons numbers were equivalent with what is required for poultry litter? Is 6,000 gallons of liquid waste a reasonable number? 6,000 gallons is a very small number and may result in all transfers falling under the requirements. The group discussed the minimum threshold amounts that are being proposed. *Staff Response: Equivalence with respect to nutrients is not where we arrived at these proposed figures. The question was what was considered a reasonable amount to say that if that amount leaves the site there is no reason for that end-user to have to follow some minimum set of requirements.*
- If the amount was 20,000 gallons would there be a need for the end-user to have to follow these requirements? *Staff Response: With liquid there are different types of potential for issues rather than with a dry material. These numbers were developed to address those individuals who only want or need a small amount of material and shouldn't have to meet these requirements.*

- There are still concerns about cumulative impact of multiple transfers to an individual location or end-user. Consistency with the poultry regulations makes sense.
- *Staff Comment: The limiting factor with these transfers is how much can a user store.*
- From a practical matter, there will be few operations/transfers that fall below these limits.
- Why is the proposed language in 16 b and c above the same? Couldn't these be combined for clarity with the items from c just being added as additional items instead of being separated out? Seems to be duplicative. *Staff Response: Staff will review these sections to see if they can be combined.*

ACTION ITEM: Staff will look over the proposed language in 16 above to see if the listed items in a; b; and c could be combined to eliminate apparent duplication or whether there is a reason that the lists need to be kept separate.

- Should 16 c read the "recipient shall keep a record of the following" instead of the "permittee"? *Staff Response: This is information that the permittee receives from the recipient.*
- The group discussed the record keeping requirements and who is responsible for keeping what records. *Staff Response: The information needs to be maintained by the permittee because those are the records that DEQ inspectors would be looking at.*
- On Page 34 of 50 in A 2 should that read "all" instead of "at earthen..."? *Staff Response: The word "at" is correct. It is where groundwater monitoring wells need to be installed.*
- In regard to the VDACS certification program - What would be a ball park amount of waste that DEQ anticipated would be transferred and where it would go? This is animal waste leaving a permitted operation and going into the certification program, which would be outside of DEQ's purview. *Staff Response: If the material meets the certification requirements, there would still be record keeping requirements that would have to be followed. The material would either need to be covered under an operation's nutrient management plan, someone else permitted facility's NMP or through the VDACS certification program. The total amounts over the threshold limits would still need to be tracked through the required record keeping provisions of the regulation. The VDACS certification program is a commercial program so it addresses material that is being sold.*
- Page 22 of 50 under 15 b (1) it states that "animal waste is certified". Applicators are certified while the products are registered. *Staff Response: In this case, the permittee would be the one that would be certified and the animal waste is registered. We need to use the VDACS terminology.*

ACTION ITEM: Staff will review the proposed language to ensure that we are consistent with the use of the VDACS terminology related to "certification" and "registration".

- There isn't a limit on this so we don't know how much material is transferred and where it ends up but there isn't a requirement to follow the fact sheet. In the universe of transfers is there any idea of how much material would fall under this scenario (VDACS certification)? I.E., waste that is moving off-site without any follow-up. *Staff Response: There are only a few dairy*

producers that are currently looking at bagging their animal waste for sale under the VDACS certification program under this value-added concept. Fewer than 5% of the current dairy operations use the VDACS certification program.

- The types of material that is being discussed as falling under the VDACS certification program is no longer animal waste, it is now considered a commercial product and should no longer fall under these requirements. It is a commercial product and the permittee doesn't have to track it any longer. *Staff Response: This material should be treated as any other commercially available fertilizer product in Virginia. The labeling requirements would be based on the nutrient content of the materials and would need to follow the VDACS labeling requirements.*

8. Continued Discussion of Potential Amendments to the VPA General Permit Regulation for AFOs - Amendments to cover the activities related to animal waste transfer - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles continued the presentation of additional proposed amendments to Chapter 192 related to animal waste transfers. The additional proposed amendments related to the tracking and accounting requirements for animal waste end-users included the following:

- Page 44 of 50 – 9VAC25-192-80 address the tracking and accounting requirements for animal waste end-users as follows:

9VAC25-192-80. Tracking and accounting requirements for animal waste end-users.

A. When an animal waste end-user is the recipient of more than 10 tons of solid or semi-solid animal waste (solid or semi-solid animal waste contains less than 85 percent moisture) or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85 percent or more moisture) in any 365-day period, the end-user shall maintain records regarding the transfer and land application of animal waste.

1. The animal waste end-user shall provide the permittee with the following items:

a. End-user name and address;

b. The locality in which the end-user intends to utilize the waste (i.e., nearest town or city and zip code);

c. The name of the stream or waterbody, if known, to the end-user that is nearest to the waste utilization or storage site; and

d. Written acknowledgement of receipt of:

(1) The waste;

(2) The nutrient analysis of the waste; and

(3) A fact sheet.

2. The animal waste end-user shall record the following items regarding the waste transfer:

a. The source name, address, and permit number (if applicable);

- b. The amount of animal waste that was received;
- c. The date of the transaction;
- d. The final use of the animal waste;
- e. The locality in which the waste was utilized (i.e., nearest town or city and zip code); and
- f. The name of the stream or waterbody, if known, to the recipient that is nearest to the waste utilization or storage site.

Records regarding animal waste transfers shall be maintained on site for a period of three years after the transaction. All records shall be made available to department personnel upon request.

3. If waste is land applied, the animal waste end-user shall keep a record of the following items regarding the land application of the waste:

- a. The nutrient analysis of the waste;
- b. Maps indicating the animal waste land application fields and storage sites;
- c. The land application rate;
- d. The land application dates;
- e. What crops were planted;
- f. Soil test results, if obtained;
- g. NMP, if applicable; and
- h. The method used to determine the land application rates (i.e., phosphorus crop removal, soil test recommendations, or a nutrient management plan).

Records regarding land application of animal waste shall be maintained on site for a period of three years after the recorded application is made. All records shall be made available to department personnel upon request.

B. Any duly authorized agent of the board may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this regulation.

Discussions by the TAC included the following:

- *Staff Comment: On Page 45 of 50 - 3 f which reads "soil test results, if obtained" should only read "soil test results;" since soil tests will always be required.*
- *Why is there a low rate option for poultry and not for dairy in requiring a soil test? Staff Response: We know basically what the nutrient content of poultry litter is, with animal waste we won't necessarily know what the nutrient analysis or content of the material would be to not have to worry about phosphorus accumulation.*
- *The group discussed phosphorus limits and nutrient considerations between the uses of poultry litter versus dairy manure. Staff Response: These requirements only address the rate of application.*

- Looking for a good use of the manure.

9. Continued Discussion of Potential Amendments to the VPA General Permit Regulation for AFOs - Amendments to cover the activities related to animal waste transfer - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles continued the presentation of additional proposed amendments to Chapter 192 related to animal waste transfers. The additional proposed amendments related to the utilization and storage requirements for transferred animal waste included the following:

- Page 46 of 50 – 9VAC25-192-90 addresses the utilization and storage requirements for transferred animal waste as follows:

9VAC25-192-90. Utilization and storage requirements for transferred animal waste.

A. Any animal waste end-user who receives animal waste shall comply with the requirements outlined in the following sections.

B. Storage requirements. Any animal waste end-user who receives animal waste shall comply with the requirements outlined in this section regarding storage of animal waste in their possession or under their control.

1. Animal waste shall be stored in a manner that prevents contact with surface water and ground water. Animal waste that is stockpiled outside for more than 14 days shall be kept in a facility or at a site that provides adequate storage. Adequate storage shall, at a minimum, include the following:

a. Animal waste shall be covered to protect it from precipitation and wind;

b. Storm water shall not run onto or under the stored animal waste;

c. A minimum of two feet separation distance to the seasonal high water table or an impermeable barrier shall be used under the stored poultry waste. All waste storage facilities that use an impermeable barrier shall maintain a minimum of one foot separation between the seasonal high water table and the impermeable barrier. "Seasonal high water table" means that portion of the soil profile where a color change has occurred in the soil as a result of saturated soil conditions or where soil concretions have formed. Typical colors are gray mottlings, solid gray, or black. The depth in the soil at which these conditions first occur is termed the seasonal high water table. Impermeable barriers shall be constructed of at least 12 inches of compacted clay, at least four inches of reinforced concrete, or another material of similar structural integrity that has a minimum permeability rating of 0.0014 inches per hour (1X10⁻⁶ centimeters per second); and

d. For animal waste that is not stored under roof, the storage site must be at least 100 feet from any surface water, intermittent drainage, wells, sinkholes, rock outcrops, and springs.

2. Any liquid animal waste collection and storage facility shall be designed and operated to (i) prevent point source discharges of pollutants to state waters except in the case of a storm event greater than the 25-year, 24-hour storm and (ii) provide adequate waste storage capacity to accommodate periods when the ground is frozen or saturated, periods when land application of nutrients should not occur due to limited or nonexistent crop nutrient uptake, and periods when physical limitations prohibit the land application of waste.

3. Waste storage facilities constructed after December 1, 1998, shall not be located on a 100-year floodplain.

4. Earthen waste storage facilities constructed after December 1, 1998, shall include a properly designed and installed liner. Such liner shall be either a synthetic liner of at least 20 mils thickness or a compacted soil liner of at least one foot thickness with a maximum permeability rating of 0.0014 inches per hour. A licensed professional engineer, an employee of the Natural Resources Conservation Service of the United States Department of Agriculture with appropriate engineering approval authority, or an employee of a soil and water conservation district with appropriate engineering approval authority shall certify that the siting, design and construction of the waste storage facility comply with the requirements of this permit. This certification shall be maintained on site.

5. At earthen waste storage facilities constructed below the seasonal high water table, the top surface of the waste must be maintained at a level of at least two feet above the water table.

6. All liquid waste storage or waste treatment facilities shall maintain at least one foot of freeboard at all times, except in the case of a storm event greater than up to and including a 25-year, 24-hour storm.

C. Land application requirements. Any animal waste end-user who (i) receives more than 10 tons of solid or semi-solid animal waste (solid or semi-solid animal waste contains less than 85 percent moisture) or more than 6,000 gallons of liquid animal waste (liquid animal waste contains 85 percent or more moisture) and (ii) land applies animal waste shall follow appropriate land application requirements as outlined in this section. The application of animal waste shall be managed to minimize adverse water quality impacts.

1. The maximum application rates can be established by the following methods:

a. Phosphorus crop removal application rates can be used when:

(1) Soil test phosphorus levels do not exceed the values listed in the table below:

<u>Region</u>	<u>Soil test P (ppm) VPI & SU Soil test (Mehlich I) *</u>
<u>Eastern Shore and Lower Coastal Plain</u>	<u>135</u>
<u>Middle and Upper Coastal Plain and Piedmont</u>	<u>136</u>
<u>Ridge and Valley</u>	<u>162</u>

* If results are from another laboratory the Department of Conservation and Recreation approved conversion factors must be used.

(2) The phosphorus crop removal application rates are set forth by regulations promulgated by the Department of Conservation and Recreation in accordance with § 10.1-104.2 of the Code of Virginia.

b. Soil test recommendations can be used when:

(1) Accompanied by analysis results for soil tests that have been obtained from the proposed field or fields in the last three years;

(2) The analytical results are from procedures in accordance with 4VAC5-15-150 A 2 f; and

(3) Nutrients from the waste application do not exceed the nitrogen or phosphorus recommendations for the proposed crop or double crops. The recommendations shall be in accordance with 4VAC5-15-150 A 2 a.

c. A nutrient management plan developed by a certified nutrient management planner in accordance with § 10.1-104.2 of the Code of Virginia.

2. The timing of land application of animal waste shall be appropriate for the crop, and in accordance with 4VAC5-15-150 A 4, except that no waste may be applied to ice covered or snow covered ground or to soils that are saturated.

3. Animal waste shall not be land applied within buffer zones. Buffer zones at waste application sites shall, at a minimum, be maintained as follows:

a. Distance from occupied dwellings: 200 feet (unless the occupant of the dwelling signs a waiver of the buffer zone);

b. Distance from water supply wells or springs: 100 feet;

c. Distance from surface water courses: 100 feet (without a permanent vegetated buffer) or 35 feet (if a permanent vegetated buffer exists). Other site-specific conservation practices may be approved by the department that will provide pollutant reductions equivalent or better than the reductions that would be achieved by the 100-foot buffer;

d. Distance from rock outcropping (except limestone): 25 feet;

e. Distance from limestone outcroppings: 50 feet; and

f. Waste shall not be applied in such a manner that it would discharge to sinkholes that may exist in the area.

D. Animal waste end-users shall maintain the records demonstrating compliance with the requirements of subsections B and C for at least three years and make them available to department personnel upon request.

E. The activities of the animal waste end-user shall not contravene the Water Quality Standards, as amended and adopted by the board, or any provision of the State Water Control Law (§ 62.1-44 et seq. of the Code of Virginia).

F. Any duly authorized agent of the board may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this regulation.

Discussions by the TAC included the following:

- *Staff Comment: Page 46 of 50 – 9VAC25-192-90 B 1 c refers to "stored poultry waste" and should instead refer to "stored animal waste".*
- Page 46 of 50 – 9VAC25-192-90 B 1 refers to "animal waste that is stockpiled" how does that relate to "liquid waste"? There is also a reference to coverage of animal waste, does that include earthen pits? *Staff Response: We need to clarify this to include reference to semi solid and solid animal waste.*

- There is some confusion over the use of terms since B 1 refers to "animal waste" and B 2 refers to "any liquid animal waste". These terms should be clarified. *Staff Response: Staff will review the use of these terms and revise to clarify the requirements.*

ACTION ITEM: Staff will clarify the differences between solid and semi-solid waste and liquid waste and the various requirements in these sections.

- If someone is under the threshold do they have to follow the storage requirements? *Staff Response: The storage requirements apply to everyone regardless of the threshold.*
- If someone is receiving material that is under the threshold amounts how are they notified of the storage requirements? *Staff Response: The fact sheet would need to be tweaked to cover this scenario. The requirements of the permittee would need to be clarified that they are responsible for providing a fact sheet regarding the storage requirements to those receiving the transferred animal waste.*

ACTION ITEM: Staff will work on the language of the requirements and on the language of the fact sheet to cover the storage requirements for those receiving transferred animal waste.

- *Staff Comment: We will look at adding back-in a standard rate option in the regulations. It will be the same language used in the poultry regulation, except instead of a ton and 1/2, it will say X pounds of phosphorus.*

ACTION ITEM: Staff will develop a standard rate option to put in the regulation.

- The timing requirements were discussed.
- Do the DCR regulations speak to frozen ground? *Staff Response: Yes, We make sure that the requirements are either in the NMP regulations or in these regulations. The one soil condition that is missing from the NMP requirements is for "saturated soils" which is why it is included in these regulations. These requirements were pulled from the poultry regulations. The requirements need to be consistent with the DCR NMP requirements while also following their permit.*
- What would an end-user have to follow? *Staff Response: They would need to follow what are their NMP as well as the end-user requirements in this regulation. The fact sheet would specify these things.*
- The group discussed the buffers. These are typical and consistent with buffers used for a permitted AFO owner.
- Page 50 of 50 E contains a statement that the "activities of animal waste end-user shall not contravene the Water Quality Standards". Where is that written out for the permittee? *Staff Response: It is included on page 5 of 50 in 9VAC25-192-50 A 2. Also on page 8 of 50 in 9VAC25-192-50 B 2 b.*

10. Comments by TAC Members:

- A comment was raised regarding previous comments and recommendations about the inclusion of stream fencing and other BMPS in the regulation related to the Chesapeake Bay WIP that should be considered. The thought is to include them in these regulations since it is currently open and is a ten-year permit and would be a good vehicle to helping meet the timelines for implementation.
- It was noted that the industry understanding of the goals of the WIP was that we were going to work towards those goals and if we didn't meet them that the state reserved the right to come back in with other regulations and mandates to make them happen. We are jumping the gun by including them in this regulation at this time.
- *Staff Comment: One of the reasons that you do not seem those items included in the draft language that was distributed to the TAC was a concern over the fragmentary nature of a mandatory requirement and the fact that it would be applied to a certain part of the population and not everyone. We are still considering it, but it has not been thoroughly vetted within the agency. Part of the problem as we discussed last time is that a lot of the land where dairy and livestock operations occur are not owned by the permit holder and the structure located on those lands, i.e., fencing, are not under their control. There is also a concern over having a mandatory requirement that applies to just a portion of the population.*
- The availability of cost-sharing opportunities was discussed. In some cases once a program becomes mandatory those cost-sharing opportunities are no longer available. The suggestion was made that the state has provided cost-share for improvements and upgrades to wastewater treatment plants – maybe the state could implement a similar program to cover costs of implementation of these types of measures if the federal cost-sharing opportunities are no longer available.
- Opposition to including this in this regulation was noted which applies to only a part of the state and only some entities within the state not the entire state.
- *Staff Comment: Staff noted that this was a 10 year permit and it can be modified if needed in the middle of the permit term if there is a need. What we are discussing is not official – this is still a discussion draft until it goes to the board. Before the draft goes to the board it will be reviewed by upper management and the director. At this time we are not including it in this draft.*

11. Discussion of Potential Amendments to the VPA Permit Regulation - Amendments to cover the activities related to animal feeding operations - Staff Presentation and General Discussion (Betsy Bowles and TAC Members):

Betsy Bowles reviewed/summarized the proposed amendments to Chapter 32 related to animal feeding operations. The items discussed included the following:

- The changes are essentially those that the TAC saw at their last meeting.

- Basically adding definitions – the majority of these have been previously discussed by the TAC.
- Page 9 of 13 – 9VAC25-32-140 contains the public notice requirements for VPA permit action and the public comment period. Same language as seen previously by the TAC.
- Page 12 of 13 – 9VAC25-32-250 is specific to "animal feeding operations" and identifies the requirements under the VPA permit program. Section B identifies the factors considered for a case-by-case determination by the board related to animal feeding operations.

Discussions by the TAC included the following:

- Regarding the "vegetated buffer" buffer – is it written in such a way to prevent the use of "buffer by-pass ditches" that would effectively negate the function of the buffer? *Staff Response: Yes. This is the federal definition from the Federal CAFO Rules and was also included in the Poultry Waste Regulations and was also in the other AFO regulation. It mirrors the federal definition. This is also same definition that is in the pending biosolids regulations. DEQ would interpret the by-pass of water so that it did not flow through the entire buffer as the buffer not being in place.*
- The concept of confinement area and the consideration of land area and stocking density were discussed. *Staff Response: The number of animals is the trigger for defining an AFO and whether you need a permit or not; it does not address land area of stocking densities.*
- Confined operations have a defined completely denuded and contained area.
- Beef operations don't typically fall under the need to get an AFO General Permit.
- The animal unit definition has nothing to do with stocking numbers.

12. Public Comment:

Bill Norris asked for public comment. No public comments were given.

13. Next Steps in the Process:

Neil Zahradka and Bill Norris reviewed the next steps in the process with the group. The proposed timeline is as follows:

- Bill will resend the materials that were sent out for today's meeting with a revised set of meeting notes from the previous meeting to provide additional review opportunity for the group.
- To provide adequate review time and to provide an opportunity for additional comments from the group – the group is requested to provide any additional comments by the **18th of January**.
- If there is anything additional in those comments, those items will be considered by staff in the preparation of the packet of materials that will be sent to the board as proposed text.

- As soon as the draft packet for submittal to the board has been developed then those materials will be distributed to the TAC Members once they are submitted to the board.
- DEQ's internal deadline to submit the packet to the board is February 14th.
- The SWCB meeting is March 14th and 15th.
- If the board approves the proposed amendments then the proposal would go out for public comment for a 60 day period where there will be at least one public hearing before it goes back to the board for consideration as a final regulation.

The group agreed with the proposed time schedule.

14. Meeting Adjournment:

The meeting was adjourned at approximately 3:00 P.M.