

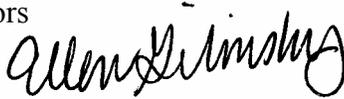
**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION**

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DIRECTOR**

Subject: Water Quality Guidance Memo No. 08-2007
Issuance of Biosolids Use Permits under the Virginia Pollution Abatement Permit System

To: Regional Directors

From: Ellen Gilinsky



Date: May 13, 2008

Copies: Deputy Regional Directors, Regional Water Permit Managers, Regional Water Compliance Managers, James Golden, Rick Weeks, Neil Zahradka, Fred Cunningham

Summary: This guidance addresses the procedures by which Virginia Department of Health Biosolids Use Permits will be converted to DEQ VPA permits, as well as procedures for issuance of new permits and addition of fields to existing permits.

Electronic Copy:

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET, and for the general public on DEQ's website at: <http://www.deq.virginia.gov/waterguidance/>.

Contact Information:

Please contact Christina Wood, Office of Land Application Programs at (804) 698-4263 or cmwood@deq.virginia.gov with any questions you have regarding the application of this guidance.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any alternative method. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

Background

On January 1, 2008, regulatory oversight of all permits relating to land application of biosolids (treated sewage sludge) was transferred from the Virginia Department of Health (VDH) to the Virginia Department of Environmental Quality (DEQ). This transfer occurred at the direction of the 2007 General Assembly, which passed legislation that required all land application of biosolids in the Commonwealth of Virginia be permitted under either a Virginia Pollution Abatement (VPA) permit or Virginia Pollutant Discharge Elimination System (VPDES) permit. The enactment clauses of the legislation specified that VDH Biosolids Use Regulation (BUR) permits would continue to be valid for the term specified in each permit unless amended or revoked by the State Water Control Board (SWCB). Due to the large number of administratively continued VDH BUR permits, it was necessary to develop guidance to direct the procedures by which transition of these permits would occur.

The State Water Control Board approved amendments to the VPA permit regulation (9VAC25-32) that effectively incorporated the technical requirements of the VDH BUR (12VAC5-585) into the VPA regulation. This amendment was accomplished through a final exempt regulatory process that incorporated the substantive requirements of the VDH BUR while retaining the procedural requirements of the VPA permit program. Deadlines for applying for VPA biosolids permits were established using the 180 day timeline currently described in the VPA permit regulation. Under this requirement, a facility currently managing pollutants under a VPA permit must apply for a permit reissuance at least 180 days prior to the expiration date of the current permit. Accordingly, the VPA transition language was modified to add section B as follows:

9VAC25-32-300. Transition.

B. Permits issued by the Department of Health under the authority of the State Board of Health prior to January 1, 2008, shall continue in force until expired, reissued, amended, or terminated in accordance with the permit or this regulation. All owners holding biosolids use construction or operation permits as of January 1, 2008, shall submit an application for a Virginia Pollution Abatement Permit in accordance with this regulation within 180 days before the date of expiration of permits issued prior to January 1, 2008, or at the time of any modification request submitted after January 1, 2008, or by June 1, 2008, whichever is later. All owners of biosolids use facilities shall comply with the applicable requirements set forth in the operational regulations of Part IX (9VAC25-32-310 et seq.) of this chapter.

The transition requirements for VDH BUR permits with definitive expiration dates are clear. However, approximately 100 VDH BUR permits were administratively continued by VDH in 2007 prior to the program transfer. In addition, several new applications for biosolids land application, as well as requests to add land application area to existing permits, were submitted to VDH but were not processed prior to January 1, 2008. This additional workload has necessitated guidance on how to process this large number of permit actions to completion in a reasonable timeframe.

Authority

The DEQ is authorized to issue permits for pollutant management activities in accordance with the Virginia Pollution Abatement (VPA) Permit Regulation, 9VAC25-32-10 et seq. § [62.1-44.19:3](#).B. specifies that no person shall contract or propose to contract, with the owner of a sewage treatment works, to land apply, market or distribute sewage sludge in the Commonwealth, nor shall any person land apply, market or distribute sewage sludge in the Commonwealth without a current Virginia Pollution Abatement Permit. Enactment clause 4 of HB 2802 (SB 1339) (modifying § [62.1-44.19:3](#) of the Code of Virginia) clarifies that any permit, certificate, or authorization for the land application, marketing, or distribution of sewage sludge issued prior to January 1, 2008, shall remain in effect for the remainder of the term specified in such permit, certificate, or authorization unless amended or revoked by the Board.

Procedures for Issuing Permits for Biosolids Applications

1. Administratively continued VDH BUR permits

Permit holders of administratively continued VDH BUR permits shall submit a Notice of Intent (NOI) to apply for a VPA Permit by June 1, 2008. The NOI shall include Part A of the VPA application form along with the following statement:

“An application for a VPA permit shall be submitted in accordance with the VPA Permit Regulation (9VAC25-32) no later than June 1, 2010.”

This two-year time frame should allow DEQ to stagger the workload of converting the VDH permits to VPA permits. Each region should work with permittees to prioritize their existing permits for reissuance so that each region can develop a schedule of reissuance tailored to their workload constraints, and all permits can be reissued in a timely fashion.

2. Applications for new land application sites in a county currently permitted

DEQ cannot modify VDH BUR permits to add land application sites. If a VDH BUR permit holder proposes to add new land application sites in a county currently permitted, one of the following two options may be utilized:

- a. the permittee can submit a complete VPA permit application for the sites currently permitted by the VDH BUR permit, plus the required information for the new proposed sites, or
- b. the permittee can submit a complete VPA permit application for the new proposed sites only.

Under the first option, the fee for the new VPA permit is \$5,000, and the VPA permit will include the new land application sites as well as those in the previously issued VDH BUR permit (i.e. a completely new permit is issued in place of the BUR permit, with the additional fields).

Under the second option, the fee for the new VPA permit is \$5,000, but the VPA permit authorization would only include the new land application sites. The permit holder could operate in the subject county under their existing VDH BUR permit for the old fields as well as the new VPA permit for the additional fields. They will then submit a complete VPA permit application for the fields covered under their VDH BUR permit by June 1,

2010, and their new VPA permit will be modified, with a \$1,000 permit modification fee.

3. Active VDH BUR permits that expire on or after January 1, 2008

For any VDH BUR permit that expires between January 1, 2008 and November 28, 2008, the permit holder shall submit a complete VPA permit application by June 1, 2008. For VDH BUR permits that expire on or after November 29, 2008, permit holders shall submit a complete VPA permit application at least 180 days prior to the expiration date of the VDH BUR permit. The fee for the new VPA permit is \$5,000.

4. Application for a new permit in a county not currently permitted

Any party wishing to land apply biosolids in a county where they do not currently hold a permit shall submit a complete VPA permit application to apply for a VPA Permit at least 180 days before the date that the party wishes to begin to land apply biosolids in that county. The fee for the new VPA permit is \$5,000.

Prioritization of permit actions

Regions will need to prioritize their permit-related actions due to the large number of permit actions to be processed for biosolids activities. DEQ staff should make efforts to process multiple permit applications for a single county as close to simultaneously as possible, in order that public meetings in a county might serve to advertise multiple permit actions. It may be necessary to share workloads between regions in order to most effectively utilize staff resources.

Permit actions are listed in decreasing order of priority:

1. Existing VDH-BUR that have not been administratively continued, or reissuance of VPA and VPDES permits that include authorization of biosolids land application. These permit actions are subject to time constraints that must be met in order for the facility to continue to operate in a manner consistent with regulatory requirements.
2. Applications for new permits. These permit actions include proposals for additional land application area in a county currently permitted, adding land area in a county not currently permitted, and proposals that had been previously submitted to the VDH. In the case where a single entity submits multiple permit applications, that entity should state the preference of processing order.
3. Conversion of administratively continued VDH BUR permits to VPA permits. The regional office will work with the permittees to prioritize permit issuance, in order to maximize efficiency of the permitting process and address the business needs of the permittees.

Nutrient Management Plan submittal

The Nutrient Management Plan for a specific site must be submitted at least 30 days before land application occurs at that site. It is not required as part of the complete application. A permit condition will specify this requirement.

Authorization of biosolids land application under a VPDES permit

Wastewater treatment facilities that choose to authorize land application under their VPDES permit can continue to do so. While there is no requirement to apply for a VPA permit in addition to the VPDES, a facility could choose to apply for a VPA permit in order to keep the activity separate.