

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY**

Subject: Interim Water Guidance Memo No. **11-2005**
Revised Local Government, Riparian Property Owner, Adjacent Property Owner or Resident, and General Public Notification Procedures for VPDES, VPA and VWP Permit Applications and Draft Permits

To: Regional Directors

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Summary: This guidance provides revised procedures to notify local governments and adjacent and/or riparian property owners of VPDES, VPA, and VWP permit applications and draft permits. This is in response to amendments to State Water Control Law and regulation, the adoption of new regulations, and the development of agency policies affecting notifications required for water permits that have occurred since 1996. Due to pending amendments to the VPDES and VPA Permit Regulations affecting notification requirements for permit applications, this is interim guidance that will be finalized upon adoption of the amended regulations. This guidance memo supersedes GM 96-008 and 97-2001 pertaining to VPDES, VPA and VWP permits, including VWP permits for surface water withdrawals.

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/>.

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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.

TABLE OF CONTENTS

I. INTRODUCTION.....	1
II. BACKGROUND	1
III. AUTHORITY	1
IV. DEFINITIONS	2
V. GUIDANCE.....	2
<u>A. NOTIFICATION PROCEDURES FOR RECEIPT OF PERMIT APPLICATIONS</u>	<u>2</u>
1. Permit Applications for Discharges or Impacts to State Waters	2
a. Point Source Discharges Authorized by VPDES Permits.....	2
b. Impacts Authorized by VWP Permits.....	3
c. General Permits	4
d. Notification Procedures.....	4
e. Discharges to Municipal Separate Storm Sewer Systems.....	4
2. Requirements for Individual VPA Permit Applications	5
3. Animal Feeding Operations and Poultry Waste Management	5
a. VPA Animal Feeding Operations General Permit Coverage.....	5
b. VPA Poultry Waste Management General Permit Coverage	6
c. VPA Individual Permits for Animal Feeding Operations	6
4. Land application or disposal of biosolids, treated municipal wastewater and stabilized septage	7
a. Public Meetings	7
b. Public Notice of Public Meetings / Comment Periods	9
c. Adjacent Property Residents (< 50% acres added).....	9
d. Adjacent Property Residents (≥ 50% acres added).....	10
5. Water Reclamation and Reuse	10
6. Notifications and Contact Information.....	11
<u>B. NOTIFICATION PROCEDURES FOR DRAFT PERMITS</u>	<u>12</u>
1. Locality Particularly Affected.....	12
2. Content of Notices	13
3. Distribution of Notices.....	14
4. Public Hearings.....	15
5. Newspaper Selection.....	15
<u>C. WATER PERMIT MANUALS AND TEMPLATES FOR NOTIFICATIONS</u>	<u>16</u>
TABLE 1 – SUMMARY OF NOTIFICATION REQUIREMENTS	17
APPENDIX I. DETAILED BACKGROUND.....	29
A. GUIDANCE MEMORANDUMS (GMS) 96-008 AND 97-2001.....	29
B. ANIMAL FEEDING OPERATIONS	31
C. BIOSOLIDS	32
D. WATER RECLAMATION AND REUSE	32

I. Introduction

Amendments to State Water Control Law (SWCL) and existing regulations, the adoption of new regulations, and the development of new agency policies have resulted in new and revised notification requirements for VPDES, VPA, VWP, and ground water withdrawal permit applications and draft permits. The purpose of this guidance is to provide revised notification procedures addressing these changes. This guidance supersedes both GM 97-2001 and GM 96-008 pertaining to VPDES, VPA and VWP permits, including VWP permits for surface water withdrawals. A detailed summary of revised notification procedures is provided in Table 1. Notification procedures for ground water withdrawal permit applications and draft permits are addressed separately in the Ground Water Withdrawal Permit Procedure Manual (June 2006) available at:

http://www.deq.virginia.gov/export/sites/default/waterresources/pdf/gwwp_manual_and_attachments.pdf. Due to pending amendments to the VPDES and VPA Permit Regulations related to biosolids land application that affect adjacent property owner notification requirements, this is interim guidance that will be finalized upon adoption of the amended regulations.

II. Background

Details regarding the history of the various notification guidance memos can be found in Appendix I.

III. Authority

The DEQ is authorized to issue the following water permits in accordance with the indicated sections of SWCL and regulations:

- VPDES permit for point source discharges of treated wastewater to surface waters per the Virginia Pollutant Discharge Elimination System Permit Regulation ([9VAC25-31](#)).
- VPA permit for pollutant management activities that protect surface and ground waters, but do not have a point source discharge to surface waters per the Virginia Pollution Abatement Permit Regulation ([9VAC25-32](#)). More specifically, [9VAC25-32-30.C](#) gives authority to DEQ to issue a VPA permit for activities involving animal feeding operations, sewage sludge or industrial waste, and the reuse or recycling of wastewater.
- VPDES or VPA permit for facilities producing or distributing reclaimed water per the Water Reclamation and Reuse Regulation ([9VAC25-740](#)).
- VWP permit for impacts to state waters per §§[62.1-44.15:20](#) and [62.1-44.15:21](#) of SWCL and, specifically, impacts to surface waters by the Virginia Water Protection (VWP) Permit Program Regulation ([9VAC25-210](#)).

Authority for DEQ to either provide or require local government and adjacent property notification for receipt of an application to issue, reissue or modify a VPDES, VPA or VWP permit is contained in §§[62.1-44.15:4.D](#), [62.1-44.17:1](#) and [62.1-44.19:3.4](#) of SWCL; the VPDES Permit Regulation ([9VAC25-31-290](#)); the VPA Permit Regulation ([9VAC25-32-140](#)); and the VPA general permit regulations for animal feeding operations ([9VAC25-192](#)) and poultry waste management ([9VAC25-630](#)).

Authority for DEQ to notify local governments of the issuance, reissuance or modification of a VPDES, VPA, or VWP permit is contained in §[62.1-44.15:01](#) of SWCL, the VPDES Permit Regulation ([9VAC25-31-290](#)) and the VPA Permit Regulation ([9VAC25-32-140](#)).

General public notice requirements (including newspaper publication) for draft permits are in [9VAC25-31-290](#), [9VAC25-32-140](#), [9VAC25-210-140](#), §§[62.1-44.16](#), [62.1-44.15:01](#), and [62.1-44.19.B](#).

IV. Definitions

“Riparian property owner”: For the purposes of this guidance, a riparian property owner is an owner of land which borders on a body of water or watercourse (i.e. a body of water flowing in a reasonably definite channel with bed and banks in which water naturally flows).

“Adjacent property owner”: For the purpose of this guidance, an adjacent property owner is an owner of property that is bordering, contiguous to, or neighboring the property that is subject of the permit application (e.g. shares one or more common property lines with the subject property).

V. Guidance

A. Notification Procedures for Receipt of Permit Applications

1. Permit Applications for Discharges or Impacts to State Waters

a. Point Source Discharges Authorized by VPDES Permits

For point source discharges to surface waters that will require a VPDES permit, §[62.1-44.15:4 D](#) requires local government and riparian property owner notification for receipt of applications to issue new or modified permits. §[62.1-44.15:4 D](#) is interpreted to mean that this local government and riparian property owner notification is required for new applications, for modification applications which include a flow expansion, and for reissuance applications that include a flow expansion.

Note that §[62.1-44.16](#) also describes newspaper public notice for ‘applications’ where owners erect, construct, open, reopen, expands, employs new processes in or operates any establishment from which there is a potential or actual discharge of industrial wastes or other wastes to state waters. Also, §[62.1-44.19.B](#) describes newspaper public notice for sewage systems or works from which there is or is to be a discharge to state waters. Since § [62.1-44.16](#) and § [62.1-44.19.B](#) do not state that publication of the application in the newspaper is done upon ‘receipt of the application’, this public notice of the application is considered complete via publication of the draft permit per §[62.1-44.15:01](#).

Staff initiated permit modifications do not involve receipt of an application and do not, therefore, require notification. Minor modifications, those that are made without public notice and do not change permit limits and special conditions regulating the discharge, do not require notification of local governments and riparian property owners per §[62.1-44.15:4 D](#). Although applications

to issue, reissue or modify permits for agricultural and aquacultural production activities are exempted from the notification requirements of §[62.1-44.15:4 D](#), other notification requirements for these operations may apply and are discussed under [Subdivision V.A.3](#) of the guidance.

Note that because VPA permits authorize only pollutant management activities having no discharge to surface waters, the notification requirements of §[62.1-44.15:4 D](#) do not apply.

b. Impacts Authorized by VWP Permits

§[62.1-44.15:4 D](#) also requires local government and riparian property owner notification for receipt of applications to issue new or modified VWP permits that involve a discharge to surface waters. For activities requiring a VWP permit that do not involve a discharge to surface waters, “impacts” of the proposed activities as defined in §[62.1-44.15:20 A.1-3](#) will determine if VWP staff should notify local government and property owners of individual permit issuances and modifications. Impacts include, but are not limited to, discharge of fill, excavation, dredging, and water withdrawal. Therefore, for sections of this guidance that pertain to VWP permits, the term “discharge” includes any surface water impacts defined in §[62.1-44.15:20 A.1-3](#).

Local government and riparian land owner notification are required for impacts requiring new individual permit issuances or major modifications and for increased impacts authorized under a minor modification of an individual permit. VWP staff should only notify non-riparian, adjacent property owners if staff determines the project impacts, as defined in [62.1-44.15:20 A.1-3](#), will affect use of the non-riparian, adjacent property.

Although local government and riparian property owner notifications for applications to reissue existing VWP permits are not required, they should be provided where there are changes proposed to the permit that, had they been proposed at any other time than permit reissuance, would have been considered a modification.

Reissuances, waivers and projects authorized by a U.S. Army Corps of Engineers (USACE) Nationwide or Regional Permit for which DEQ has already provided Clean Water Act (CWA) Section 401 certification, do not require local government and riparian property owner notification.

For surface water withdrawals, pre-application public notice requirements for proposals of certain water supply projects are described in [9VAC25-210-75 B](#) (applies to issuance and modifications). Per [9VAC25-210-140](#), the initial application for surface water supply projects that requires both an individual Virginia Water Protection Permit and a Virginia Marine Resources permit under [§28.2-1205](#) of the Code of Virginia must be advertised concurrently by the DEQ and the Virginia Marine Resources Commission. The cost for this advertising is paid by the applicant.

Notification requirements for receipt of VWP permit applications and draft permits are discussed in more detail in Table 1 of the guidance.

c. General Permits

Local government and riparian property owner notification requirements of §[62.1-44.15:4 D](#) do not apply to coverage under general permits. The intent of §[62.1-44.15:4 D](#) is to give interested persons the opportunity to participate in the decision making process during development of the permit. A general permit is issued or reissued through the adoption or amendment of a general permit regulation. Localities and riparian property owners are provided an opportunity to participate in this rulemaking process pursuant to other laws and regulations unrelated to the public participation opportunities provided by §[62.1-44.15:4 D](#) for permit applications. Although there are no provisions in law or regulation requiring public participation for general permit coverage of discharges, some VPA general permits for pollutant management activities that do not involve a discharge to surface waters have specific notification requirements to be performed by applicants. Notification requirements for these permits are discussed in [Subsection V.A.3](#) a. and b. of this guidance.

d. Notification Procedures

Where notification for receipt of a VPDES or VWP permit application is required in accordance with §[62.1-44.15:4 D](#), the notification must include:

- “(i) the name of the applicant;*
- (ii) the nature of the application and proposed discharge¹;*
- (iii) the availability and timing of any comment period; and*
- (iv) upon request, any other information known to, or in the possession of, the Board or the [DEQ] regarding the applicant not required to be held confidential by this chapter.”*

The notification is to be sent when an application is received at the Regional Office. However, since the Regional Office will not know when the permit public notice period will be held, in order to satisfy item (iii) pertaining to “the availability and timing of any comment period”, the notification should state that a public notice will be published in a local newspaper when the draft permit has been prepared. The notification should also explain that the draft permit will be available for public review and comment for 30 days from the first publication date of the public notice.

Upon receipt of an application to issue a new or modified VPDES or VWP individual permit for a discharge, dredging, or water withdrawal (excluding applications for agricultural production or aquacultural production activities), the Regional Office must notify, in writing, the locality wherein the activity does or is proposed to take place. For VPDES individual permits, the Regional Office must also "make a good faith effort to provide this same notice and information to (i) each locality and riparian property owner to a distance one quarter mile downstream and one quarter mile upstream or to the fall line, whichever is closer in tidal waters, and (ii) each locality and riparian property owner to a distance one half mile downstream on nontidal waters."

e. Discharges to Municipal Separate Storm Sewer Systems

¹ Including any surface water impacts defined in §[62.1-44.15:20](#) A.1-3.

If the discharge in the permit application is to a municipal separate storm sewer system (MS4), the point of discharge for the purpose of determining the localities and riparian property to be notified is the discharge point of the MS4. The distance from the discharge should be measured in river miles according to DEQ's "Standard Practice for the Measurement of River Miles, Determination of Latitudes and Longitudes, for Monitoring Stations, Facility and Outfall Locations Using U.S. Geological Survey (USGS) Topographic Maps for the State of Virginia", and should use the point of discharge as the starting point for the measurement.

2. Requirements for Individual VPA Permit Applications

The Regional Office must notify local governments upon receipt of an application to issue, reissue or modify an individual VPA permit in order to comply with [9VAC25-32-140](#) E of the VPA Permit Regulation. This notification must, at a minimum, include:

- i) the name of the applicant,
- ii) the nature of the application and proposed pollutant management activity, and
- iii) any other requested information known to or in the possession of the Board or the DEQ regarding the application unless restricted by a claim as confidential by the applicant in accordance with [9VAC25-32-150](#).

“Modification” of a VPA permit, used in the context of [9VAC25-32-140](#).E, refers to a major permit modification for causes described in [9VAC25-32-220](#) and for an increase in the acreage of sites authorized for land application of biosolids by 50 percent or more of the originally permitted acreage (§[62.1-44.19:3](#).C.10).

For receipt of applications to issue, reissue or modify VPDES or VPA permits that authorize land application of biosolids, treated municipal wastewater or stabilized septage, the Regional Office may be required to provide notification to localities or adjacent property residents where these pollutant management activities are to occur. These notification requirements are described in more detail under [Subdivision V.A.4](#) of this guidance.

For receipt of applications to issue, reissue or modify VPA permits that authorize all other pollutant management activities, the Regional Office is not required to notify adjacent property owners or residents upon receipt of the application as §[62.1-44.15:4](#) D only applies to permits with a discharge.

3. Animal Feeding Operations and Poultry Waste Management

a. VPA Animal Feeding Operations General Permit Coverage

Applicants seeking coverage under a VPA general permit for animal feeding operations are required to include in their registration statement evidence that notice has been given of the proposed operation to adjoining property owners (§[62.1-44.17:1](#).C.5 and [9VAC25-192-50](#).A.5).

While a specific locality notification requirement is absent from law and regulation, applicants are required to include in their registration statement a notification from the affected locality (or

a local government ordinance form) that the operation is consistent with the locality's ordinances (§[62.1-44.17:1.C.3](#), [9VAC25-192-50.A.3](#), and [9VAC25-192-60.A.7](#)).

b. VPA Poultry Waste Management General Permit Coverage

Applicants seeking coverage under a VPA general permit for poultry waste management are required to give notice to adjoining property owners when the applicant files a registration statement ([9VAC25-630-30.A.5](#) with no correlating requirement in the law). There are no requirements in the law or regulations requiring notice to localities for coverage under the poultry waste management general permit.

c. VPA Individual Permits for Animal Feeding Operations

If an applicant applies for an individual VPA permit or major modification of an individual VPA permit authorizing pollutant management activities associated with an animal feeding operation or poultry waste management, the Regional Office must notify the locality where the activity will take place ([9VAC25-32-140.E.1](#)).

4. Land application or disposal of biosolids, treated municipal wastewater and stabilized septage

a. Public Meetings

§[62.1-44.19:3.4](#) of SWCL applies exclusively to VPDES or VPA permit applications for the land application or disposal of biosolids, treated municipal wastewater and stabilized septage, including VPDES permit applications with a Land Application Plan (LAP). After receipt of all such permit applications to issue a permit, a public meeting is required in addition to local government notification (§[62.1-44.19:3.4.A](#), [9VAC25-31-290](#) for VPDES and [9VAC25-32-140](#) for VPA).

The public meeting requirement also applies to receipt of a permit application to *reissue or modify* a VPDES or VPA permit, or, as applicable, to the modification of a LAP in a VPDES permit for the following:

- (i) Land application or disposal of treated municipal wastewater or septage where less stringent limits or monitoring requirements will be added to the permit, or where there will be an increase in the acreage authorized by the permit for land application or disposal; and
- (ii) Land application or disposal of biosolids where less stringent limits or monitoring requirements will be added to the permit, or where there will be an increase in acreage authorized by the permit or, as applicable, the LAP for land application or disposal of biosolids that is 50 percent or more of the *originally permitted* acreage. This is a result of §[62.1-44.19:3.C.10](#) which states that “an application for any permit amendments to increase the acreage authorized by the *initial* permit by 50 percent or more shall be treated as a new application for purposes of public notice and public hearings”.

Notes:

- The increase in acreage for the current permit action is calculated as the sum of all acreage added to the permit through reissuance(s) and/or modification(s) since the last public meeting for the permit. Public meetings do not include public hearings for draft permits.
- Reductions in acreage that have occurred since prior permit actions are not considered in the calculation.
- For VPDES or VPA permits that authorized biosolids land application prior to January 1, 2008, the *originally permitted acreage* of these permits for the purposes of determining a public meeting requirement is the total acreage authorized by the permit on December 31, 2007.

Examples for determining when a public meeting will be required for a permit reissuance or modification to increase biosolids land application acreage are as follows:

Example 1: The initial permit issuance authorized 200 acres for biosolids land application. At the first permit reissuance, the permittee requests to authorize an additional 100 acres.

- 100 acres is equal to 50 percent of the originally permitted acreage.
- A public meeting must be held prior to the permit reissuance.
- Note that the need for a public meeting would be the same if this were a modification rather than a reissuance.

Example 2: The initial permit issuance authorized 200 acres for biosolids land application. At the first permit reissuance (or modification), the permittee requests to authorize 60 additional acres.

- 60 acres is less than 50 percent of the originally permitted acreage (200 acres).
- A public meeting will not be required prior to permit reissuance (or modification).

Example 3: A biosolids permit that includes 200 acres is reissued, and a public meeting is held because the reissuance authorizes an acreage increase of 150 acres. A modification request follows to authorize an additional 90 acres. Since this is less than 50 percent of the originally permitted acreage, a public meeting is not held. A second permit modification request is received, requesting authorization of an additional 30 acres.

- 30 acres is an increase less than 50 percent of the originally permitted acreage (200 acres).
- HOWEVER, the increase in acreage for the purpose of determining the need for the public meeting is the sum of all acreage added to the permit since the last public meeting for the permit (i.e. at the permit reissuance).
- 90 acres were added in a previous modification and 30 acres are to be added for the current modification, yielding a total of 120 additional acres. This is greater than 50 percent of the originally permitted acreage.
- A public meeting will be required for the current permit action (i.e. the modification to add 30 acres), and the draft permit must be public noticed with opportunity to request a public hearing.
- Note that at this public meeting, the attendees should be made aware of all the sites in the permit, but that the only sites in question are those included in the current permit action. Any public hearing requests must reference sites included in the 30 acre modification request.

The public meeting requirement does not apply to a permit application to reissue or modify a VPDES or VPA permit for land application or disposal of biosolids, treated municipal wastewater or stabilized septage when:

- (i). There are no changes proposed to the original permitted activities,

- (ii). The permit action is a modification that involves an increase in acreage authorized by the permit for land application or disposal of biosolids that is less than 50 percent of the originally permitted acreage, or
- (iii). The permit action involves other minor modifications as described in [9VAC25-32-240](#) of the VPA Permit Regulation.

b. Public Notice of Public Meetings / Comment Periods

When a public meeting is required for receipt of VPDES or VPA permit application, the Regional Office must “give notice of the date, time, and place of the public meeting and a description of the proposal by publication in a newspaper of general circulation in the city or county where the proposal is to take place. Public notice of the scheduled meeting shall occur no fewer than 7 or more than 14 days prior to the meeting.”

Adjacent property resident notification for permit issuance is satisfied by the public meeting requirements of §[62.1-44.19:3.4.A](#). However, the Regional Office should notify the adjacent property residents of the public meeting in order to increase the likelihood that extended buffer requests submitted in accordance with [Guidance Memo No. 10-2004](#) are received in advance of permit issuance.

Also, §[62.1-44.19:3.4.A](#) states that the “The Board shall not issue the permit for land disposal until the public meeting has been held and comment has been received from the local governing body, or until 30 days have lapsed from the date of the public meeting.” This is interpreted to mean that the Regional Office must hold a public meeting on the application and receive public comments, including those of the local governing body, for 30 days following the date of the public meeting and prior to issuing the permit.

The Regional Office should attempt to hold the public meeting as soon as possible upon receipt of the application, but it may be held any time between the date it is deemed administratively complete and the date the public notice for the draft permit is published. Separate public notices are required for the permit application public meeting and the draft permit. The Regional Office is responsible for the cost of the public notice for the permit application public meeting.

c. Adjacent Property Residents (< 50% acres added)

Sections [62.1-44.19:3.4.B](#) and [62.1-44.19:3.C.10](#) of SWCL require notification of adjacent property residents for receipt of an application to reissue or modify a permit that proposes to increase the biosolids land application acreage by less than 50 percent of the originally permitted acreage.

Following notification of adjacent property residents, §[62.1-44.19:3.4.B](#) requires the Regional Office to receive comments from adjacent property residents on the permit application for a period of no more than 30 days and, based on the comments, determine whether additional site-specific requirements should be included in the draft permit for biosolids land application.

Local government notification requirements of §[62.1-44.19:3.4.A](#) and [9VAC25-31-290](#) or [9VAC25-32-140](#) do not apply to this particular permit reissuance and permit modification, considered a minor modification. However, it is recommended that the Regional Office notify

the locality of the request to add land as a matter of courtesy and in anticipation of the possibility of neighbors bringing complaints or controversy to the locality's attention.

d. Adjacent Property Residents (≥ 50% acres added)

Notification of adjacent property residents in accordance with [62.1-44.19:3.4.B](#) is not required for a permit application (reissuance or modification) that proposes to increase the biosolids land application acreage by 50 percent or more of the originally permitted acreage. Adjacent property resident notification for these permit actions is satisfied by the public meeting requirements of [§62.1-44.19:3.4.A](#). However, it is recommended that the Regional Office notify the adjacent property residents of the public meeting in order to increase the likelihood that extended buffer requests submitted in accordance with [Guidance Memo No. 10-2004](#) are received in advance of permit issuance.

5. Water Reclamation and Reuse

Water reclamation and reuse projects may be authorized by either a VPDES or VPA permit. Additional information regarding permit requirements for these projects is provided in the implementation guidance for the Water Reclamation and Reuse Regulation ([9VAC25-740](#)). Local government, riparian property owner, and adjacent property owner or resident notification requirements for the permit application and draft permit shall be those that apply to the specific type of permit issued to the project (i.e., VPDES or VPA) and the type of permit action (i.e., issuance, reissuance, major or minor modification, or administrative authorization).

Per [9VAC25-740-30.B](#), the incorporation of standards, monitoring requirements and special conditions for water reclamation and reuse into an existing VPA permit may be considered a minor modification. Similar standards, monitoring requirements and special conditions may be administratively authorized in association with an existing VPDES permit. There are no local government or adjacent property owner notification requirements for the permit application or draft permit associated with the minor modification of a VPA permit or the administrative authorization in association with the VPDES permit.

Where the addition of water reclamation and reuse standards, monitoring requirements and special conditions will alter other conditions of a VPDES permit specifically related to the effluent discharge or a VPA permit specifically related to the pollutant management activity for which the permit was originally issued, a major modification of the permit will be required. Some examples where such modifications may occur would be for the relocation of a VPDES permitted outfall to a water supply reservoir for indirect potable reuse, or the conversion of a VPA permitted land treatment site to an irrigation reuse site.

Upon receipt of an application to *issue or modify* a VPDES permit for a water reclamation and reuse project with a point source discharge to surface waters, the Regional Office must notify localities and riparian property owners in accordance with [§62.1-44.15.4.D](#) and correlating requirements in [9VAC25-31-290](#). This would typically involve, but is not limited to, reclamation systems that choose to maintain a discharge in lieu of providing storage for reclaimed water.

Upon receipt of an application to *issue, reissue or modify* a VPA permit for a water reclamation and reuse project, the Regional Office must notify localities in accordance with [9VAC25-32-140.E](#). This would typically involve, but is not limited to, reclamation systems and reclaimed water distribution systems without a point source discharge to surface waters.

6. Notifications and Contact Information

Where DEQ is *required* to notify a local government upon receipt of an application for a VPDES, VPA or VWP permit, the notification should be made to the chief administrative officer of the locality (i.e., county administrator or town manager). The Regional Offices should maintain the names and addresses of these individuals for local governments within their territory. The riparian or adjacent property owners to be notified will be based on names and addresses taken from local tax rolls.

Per [§62.1-44.15:4 D](#), the names and addresses of riparian property owners are to be provided by the Commissioners of the Revenue or the tax assessor's office in the affected jurisdiction upon request of the Board. Many Commissioners now provide access to tax parcel and property owner information via the internet, using a Geographical Information System interface. Obtaining property owner information in this manner satisfies the criteria of [§62.1-44.15:4 D](#).

Note that the Board is not authorized to obtain the names and addresses of riparian property owners from sources other than the Commissioners of Revenue of the tax assessor's office. In addition, riparian property owner notification required per [§62.1-44.15:4 D](#) applies only to owners of riparian property and not to persons renting or leasing riparian property. However, the Regional Office may choose to additionally notify holders of deeded easements or common areas of a community to avoid or minimize complaints or controversy from neighbors that could arise if the proposed activity begins without their prior knowledge.

If difficulties are encountered in obtaining property owner information, contact the Central Office to work through the Virginia Association of Commissioners of the Revenue to resolve any problems. Staff should work with local Commissioners to make them aware of the law and to obtain their cooperation in providing this information in a timely manner. A list of Commissioners of the Revenue is available at http://www.vacomrev.com/web/guest/District/ViewAllLocalities?p_p_state=normal.

Riparian property owner or adjacent property owner/resident notification of permit applications where required should be done as soon as possible after receipt of the application to avoid delaying permit application processing. For the VWP program, if necessary, notification can be done as soon as possible after receipt of a complete VWP permit application. For requirements of a complete VWP permit application, see [9VAC25-210-80.B.1.a-n](#).

For permit applications that involve a discharge to surface waters, the Regional Office is required to do one of the following:

1. Send a letter to the Commissioner of the Revenue (or the tax assessor's office if the locality does not have a Commissioner of the Revenue), along with a map showing the location of the discharge point; or
2. Obtain the required information from the Commissioner's web site.

The letter request or web search should focus on the names and addresses of all property owners and holders of deeded easements along the shore of the receiving water for the specified distance from the discharge. Marking the boundaries of the notification area may also be helpful when making a letter request to the Commissioner. Where the receiving water of the discharge forms a boundary between more than one locality, the Regional Office should send the letter to the Commissioner in both localities. If the receiving water is a river at the point of discharge and is two miles wide or greater, then only those property owners on the discharge side of the river must be notified per [§62.1-44.15:4](#). D.

Occasionally, an applicant hoping to expedite this process will provide the names and addresses of the riparian or adjacent property owners to the DEQ. This is acceptable if the names and addresses originate from and are provided to the applicant by the Commissioner of Revenue, the tax assessor's office, or their official web sites. In these cases the applicant must provide a copy of the transmittal correspondence from the local government or a screen print from the web site so that we can verify the source.

For applications received to reissue or modify VPDES or VPA permits that propose to increase authorized biosolids land application acreage by less than 50% of the originally permitted acreage, the Regional Offices must make a good faith effort to notify adjacent property residents of the application to meet the intent of the law ([§62.1-44.19:3.4.B](#)). Adjacent property owners may also be notified whether or not they are adjacent property residents. Therefore, the Regional Office may request the names and addresses of property owners (who may also be residents) bordering the newly proposed sites from the Commissioner of Revenue or tax assessor's office to make adjacent resident notifications. To expedite this request to the Commission of Revenue, the Regional Office may request the applicant to provide tax map information for the newly proposed sites to send to the Commissioner. Optionally and where available, the Regional Office may obtain adjacent property owner information on-line, as described above. Where, in addition to the list of property owners provided by the Commissioner of Revenue or tax assessor's office, the Regional Office has knowledge of adjacent property residents that are not the owner of the property on which they reside, the Regional Office, at its discretion and by whatever means it chooses, should provide notification to those residents.

B. Notification Procedures for Draft Permits

1. Locality Particularly Affected

Per [§62.1-44.15:01](#), the Regional Office must implement specific public notification requirements if they find that a locality is particularly affected by a new regulation, by a variance to an existing regulation or by a permit issuance. The law defines "locality particularly affected" as "any locality which bears any identified disproportionate material water quality impact which would not be experienced by other localities." Per this definition, a locality particularly affected

is any locality in which a proposed permitted activity is located, but may or may not be the only locality in Virginia that might experience an adverse impact from the permitted activity.

“Locality” can mean a county, city or town. If a discharge is in a town that is located within a county, then both the town and the county would be “particularly affected” and would require notification of draft permits.

When a draft permit will include regulated activities or impacts in more than one county (e.g., land application of sludge or wastewater, dredging in one county and dredge dewatering and disposal in another, downstream mixing zones, etc.), each county must be notified. For example, it may be necessary to notify localities downstream in addition to the locality where a surface water withdrawal or discharge is located. The Regional Office should use best professional judgment to determine what localities are particularly affected by the activity based on the scope and magnitude of the activity and the proximity of a locality to the activity.

Notification requirements of §[62.1-44.15:01](#) apply to draft water permits involving actions to issue, reissue or modify the permits. Even when a permit is to be reissued without changes, the locality where the authorized activity occurs will maintain the status of a “locality particularly affected” and must receive notification. Notification requirements of §[62.1-44.15:01](#) do not apply to general permits. General permits have statewide application and do not, therefore, particularly affect specific localities.

Newspaper notification requirements for applications under § [62.1-44.16](#) for industrial waste to surface water and applications under § [62.1-44.19.B](#) for sewage system or works from which there is or is to be a discharge to state waters are covered under the draft permit notification requirements of §[62.1-44.15:01](#).

2. Content of Notices

Per §[62.1-44.15:01](#).1, the Regional Office is required to include in the public notice for a draft permit “a statement of the estimated local impact of the proposed action, which at a minimum shall include information on the specific pollutants involved and the total quantity of each which may be discharged.” To meet the intent of the law, public notice templates for draft VPDES, VPA and VWP permits must list categories of “pollutants” (i.e., nutrients, metals, organic matter, solids, fill in surface waters, including wetlands; etc.) to identify “specific pollutants”, and the “amounts that protect water quality” to address “total quantity” of each pollutant.

In the case of VPDES or VPA permits, the draft permit public notice must include the applicable category of pollutant for each pollutant having limits and/or monitoring requirements in the draft permit. Where a specific pollutant is not represented by any of the pollutant categories listed in the public notice template, contact DEQ Central Office staff in the appropriate permit program for assistance establishing a pollutant category to include in the public notice. Current public notice templates for these draft permits are maintained on the DEQnet at http://deqnet/documents/index.asp?path=/docs/policy/public_notice_templates.

Both [9VAC25-31-290.D](#) of the VPDES Permit Regulation and [9VAC25-32-140.C](#) of the VPA Permit Regulation specify other items to be contained in the public notice for a draft VPDES or VPA permit, respectively. These include a general description of activities to be authorized by the permit. Per [9VAC25-31-290.D.1.f](#), the general description of the public notice for a draft

VPDES permit must include:

- i) the location of each existing or proposed discharge point,
- ii) the name of the receiving water for the discharge,
- iii) the sludge use and disposal practice or practices,
- iv) the location of each sludge treatment works treating domestic sewage (or municipal wastewater), and
- v) use or disposal sites known at the time of permit application.

Per [9VAC25-32-140.C.1](#), the general description of the public notice for a draft VPA permit must include the location of the pollutant management activity, including storage and land application sites.

For draft water permits that involve a discharge of treated wastewater, the public notice must specify the flow (daily rate expressed as million gallons per day or gallons per day) of the discharge. If a discharging facility has more than one outfall that will discharge to the same receiving water, the flow of the discharge shall be the total flow from all the outfalls. Where the facility has a discharge or discharges to more than one stream, the total flow of the discharge to each stream must be listed separately in the public notice.

For draft water permits that involve a discharge of fill material to or excavation in surface waters, including wetlands, the public notice must specify the mechanism by which any required compensatory mitigation is being provided, and the total amount of compensation (i.e., in acres, linear feet, etc.).

3. Distribution of Notices

At the same time the public notice for the draft permit is sent to the newspaper, send an electronic copy of the notice to the DEQ-Water Division, Office of Water Permits and Compliance Assistance (OWPCA) for inclusion on the agency mailing list. This list is maintained and distributed once every two weeks by OWPCA staff. OWPCA will also forward the notice to the DEQ water web contact to publish on the agency's website. If the Regional Office uses the optional public notice procedures in which the permittee is responsible for sending the notice to the newspaper, send a copy of the public notice to OWPCA at the same time the public notice package is sent to the owner.

[§62.1-44.15:01.2](#) requires that the public notice for a draft VPDES, VPA or VWP permit be mailed to three specific officials in the locality particularly affected. They include:

- i) the chief elected official (i.e., the mayor or chairman of the Board of Supervisors),
- ii) the chief administrative officer (i.e., city or town manager, or county administrator) and
- iii) the appropriate planning district commission.

For VPDES and VPA draft permits, the notice to local officials should be mailed at the same time the notice is sent to the newspaper and the OWPCA. However, notice to local officials should be mailed in a different letter than that sent to the newspaper or other agencies. If the Regional Office uses the optional public notice procedures in which the permittee is responsible for sending the notice to the newspaper, the Regional Office remains responsible for notifying the local officials. For example, the notice for a VWP draft permit should be sent to the localities by the Regional Office when they send the draft permit package to the applicant for

review. If the applicant is one of the local officials that must be notified of a draft permit, receipt of authorization to publish the public notice from the applicant constitutes the notice required by §62.1-44.15:01.2. Other government officials that are not the applicant and/or the planning district must still be notified by the Regional Office to comply with §62.1-44.15:01.2.

§62.1-44.15:01 does not require DEQ to send public notices by certified mail to localities particularly affected, or to obtain any other proof that the notices were received. The Regional Office should, however, document the fact that the notices were sent to the localities by keeping copies of the notice transmittal letters in the permit files.

4. Public Hearings

If a public hearing is to be held for a draft permit, §62.1-44.15:01.1 also requires the public comment period to remain open for 15 days following the hearing unless the Board votes to shorten that period. New informal public hearing procedures for water permits are currently being developed by the DEQ Office of Regulatory Affairs in response to the addition of §62.1-44.15:02 (Permits; procedures for public hearings and permits before the Board) to SWCL in 2008. These procedures will not be addressed in this guidance but may be addressed in other Water Division guidance or the individual program permit manuals of the Division.

5. Newspaper Selection

Per §62.1-44.15:01.1, public notices for draft permits must be published in “a local newspaper of general circulation in the localities affected.” In addition, §8.01-324 of the Code of Virginia specifies what newspapers within Virginia may be used for legal notices and publications, including public notices for draft permits and public hearings. According to §8.01-324.A, whenever any notice is required by law to be published in a newspaper, that newspaper shall:

- i.) Have a bona fide list of paying subscribers;
- ii.) Have been published and circulated at least once a week for twenty-four consecutive weeks without interruption for the dissemination of news of a general or legal character;
- iii.) Have a general circulation in the area in which the notice is required to be published;
- iv.) Be printed in the English language; and
- v.) Have a second-class mailing permit issued by the United States Postal Service.

§8.01-324 also contains provisions to allow the use of local newspapers that serve smaller localities to publish public notices that do not meet all the above criteria.

When considering what newspaper to use for a public notice, the Regional Office should confirm, at a minimum, that a newspaper is “a local newspaper of general circulation in the localities affected”, and for smaller papers of limited publication and circulation, request written verification from the newspaper that it is legally qualified to publish public notices in accordance with §8.01-324 of the Code of Virginia. For these smaller papers described in §8.01-324.B, written verification will be required on an annual basis for all notices published by the newspaper for the Regional Office.

DEQ does not maintain a master, centralized list of all newspapers that comply with §8.01-324. Directories and information regarding Virginia newspapers can be found at the website of the US Newspaper List (<http://www.usnpl.com/vanews.php>). This list contains Virginia newspapers

that are likely to have general circulation in affected localities. CEDS also provides a dropdown list of newspapers under the General Information tab for VPDES, VPA and VWP permits. These lists, however, do not include all newspapers published in Virginia and may contain newspapers that do not meet the requirements of §[8.01-324](#) of the Code of Virginia.

C. Water Permit Manuals and Templates for Notifications

This guidance document does not contain templates for letters to the Commissioner of Revenue or tax assessor's office, letters of notification to local government and riparian or adjacent property owners for permit applications, letters of notification to localities particularly affected by draft permits, or public notices for permit application public meetings or draft permits. Templates for these letters and the public notice for the permit application public meeting are included, as appropriate, in the VPDES, VPA and VWP permit manuals on the DEQnet, and shall be periodically updated in response to changes to SWCL, regulations, agency policies, and this or other guidance. The narrative instructions of the permit manuals shall reflect the practices and procedures provided in this guidance and subsequent addendums hereto.

As noted in [Subsection V.B](#) of the guidance, current public notice templates for draft VPDES, VPA and VWP permits are also on the DEQnet, but are maintained by the DEQ Policy and Legislative Affairs staff at a separate location.

TABLE 1 – Summary of Notification Requirements

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
1	<u>VPA General Permit Coverage for Animal Feeding Operations Issuances</u>	<ul style="list-style-type: none"> • DEQ: None • Applicant: Local Government Ordinance Form submitted with registration statement <p>Citations: § 62.1-44.17:1.C.3 9VAC25-192-50.A.3 9VAC25-192-60.A.7</p>	<ul style="list-style-type: none"> • DEQ: None • Applicant: Notice to adjacent property owners certified in registration statement <p>Citations: § 62.1-44.17:1.C.5 9VAC25-192-50.A.5</p>
2	<u>VPA General Permit Coverage for Poultry Waste Management Issuances</u>	<ul style="list-style-type: none"> • DEQ: None • Applicant: None. 	<ul style="list-style-type: none"> • DEQ: None • Applicant: Notice to adjacent property owners certified in registration statement <p>Citations: 9VAC25-630-30.A.5</p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
3	<p><u>VPA Individual Permit with Land Application Component (Biosolids², Treated Municipal Wastewater, Stabilized Septage)</u></p> <p><u>Issuances</u></p>	<ul style="list-style-type: none"> • DEQ: mail notification to local governing bodies: <ol style="list-style-type: none"> 1. Upon receipt of application 2. Upon public notice of draft permit • Applicant: Notification to local governing bodies at least 100 days before land application (this may be satisfied through DEQ notifications noted above) <p>Citations: <u>§ 62.1-44.19:3.4.A</u> <u>§ 62.1-44.15:01.A</u> <u>§ 62.1-44.19:3.K</u> <u>9VAC25-32-140.E.1</u> <u>9VAC25-32-140.F</u> <u>9VAC25-32-510.F</u></p>	<ul style="list-style-type: none"> • DEQ: Public meeting on application <ol style="list-style-type: none"> 1. Newspaper notice of meeting no fewer than 7 or greater than 14 days prior to the meeting 2. Allow 30 day comment period after the meeting 3. Notify adjacent landowners of public meeting (not required in code) • Applicant: None <p>Citations: <u>§ 62.1-44.19:3.4.A</u> <u>9VAC25-32-140</u></p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
	<p><u>VPA Individual Permit with Land Application Component (Biosolids²)</u></p> <p><u>Reissuance with Acreage Increase ≥ 50%³ of Originally Permitted Acreage</u></p> <p>OR</p> <p><u>Acreage Increase ≥ 50%³ of Originally Permitted Acreage During Permit Term</u></p>	<ul style="list-style-type: none"> • DEQ: Mail notification to local governing bodies: <ol style="list-style-type: none"> 1. Upon receipt of application 2. Upon public notice of draft permit • Applicant: Notification to local governing bodies at least 100 days before land application (this may be satisfied through DEQ notifications noted above) <p>Citations: <u>§ 62.1-44.15:01.A</u> <u>§62.1-44.19:3.C.10</u> <u>§ 62.1-44.19:3.K</u> <u>§62.1-44.19:3.4.A</u> <u>9VAC25-32-140.E.1</u> <u>9VAC25-32-140.F</u> <u>9VAC25-32-510.F</u></p>	<ul style="list-style-type: none"> • DEQ: Public meeting on application <ol style="list-style-type: none"> 1. Newspaper notice of meeting no fewer than 7 or greater than 14 days prior to the meeting 2. Allow 30 day comment period after the meeting 3. Notify adjacent landowners of public meeting (not required in code) • Applicant: None <p>Citations: <u>§ 62.1-44.19:3.4.A</u> <u>9VAC25-32-140</u></p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
5	<p><u>VPA Individual Permit with Land Application Component (Biosolids²)</u></p> <p><u>Reissuance with Acreage Increase < 50%³ of Originally Permitted Acreage</u></p>	<ul style="list-style-type: none"> • DEQ: Mail notification to local governing bodies: <ol style="list-style-type: none"> 1. Upon receipt of application 2. Upon public notice of draft permit • Applicant: Notification to local governing bodies at least 100 days before land application (this may be satisfied through DEQ notifications noted above) <p>Citations: § 62.1-44.15:01.A § 62.1-44.19:3.K 9VAC25-32-140.E.1 9VAC25-32-140.F 9VAC25-32-510.F</p>	<ul style="list-style-type: none"> • DEQ: Notify residents of property adjacent to additional land and allow 30 day comment period • Applicant: None <p>Citations: § 62.1-44.19:3.C.10 § 62.1-44.19:3.4.B 9VAC25-32-140.G</p>
6	<p><u>VPA Individual Permit with Land Application Component (Biosolids²)</u></p> <p><u>Acreage Increase < 50%³ of Originally Permitted Acreage During Permit Term</u></p>	<ul style="list-style-type: none"> • DEQ: None. Courtesy notification to locality is recommended and may be coordinated with the applicant's 100 day notice • Applicant: Notification to local governing bodies at least 100 days before land application <p>Citations: § 62.1-44.19:3.K</p>	<ul style="list-style-type: none"> • DEQ: Notify residents of property adjacent to additional land and allow 30 day comment period • Applicant: None <p>Citations: § 62.1-44.19:3.C.10 § 62.1-44.19:3.4.B 9VAC25-32-140.G</p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
7	<p><u>VPA Individual Permit for Other Pollutant Management Activities (EXCLUDES Land Application of Biosolids², Treated Municipal Wastewater or Stabilized Septage)</u></p> <p><u>Issuances, Reissuances or Major Modifications</u></p>	<ul style="list-style-type: none"> • DEQ: Mail notification to local governing bodies: <ol style="list-style-type: none"> 1. Upon receipt of application 2. Upon public notice of draft permit • Applicant: None <p>Citations: § 62.1-44.15:01.A 9VAC25-32-140.E.1 9VAC25-32-140.F</p>	<ul style="list-style-type: none"> • DEQ: None. • Applicant: None
8	<p><u>VPA Individual Permit for Pollutant Management Activities Other than Land Application of Biosolids²</u></p> <p><u>Minor Modifications</u></p>	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
9	<p><u>VPDES Individual Permit with Land Application Component for Biosolids², Treated Municipal Wastewater, or Stabilized Septage</u></p> <p><u>Issuances</u></p>	<ul style="list-style-type: none"> • DEQ: <ol style="list-style-type: none"> 1. Upon receipt of a permit application, mail notification to: <ol style="list-style-type: none"> a. Local governing bodies where land application and discharge takes place b. (From the discharge point) each locality to a distance one quarter mile down and up stream or to the fall line whichever is closer on tidal waters, and c. (From the discharge point) each locality to a distance one half mile downstream on nontidal waters. 2. Upon public notice of draft permit, mail notification to locality particularly affected. • Applicant: None <p>Citations: <u>§ 62.1-44.15:01.A</u> <u>§ 62.1-44.15:4.D</u> <u>§ 62.1-44.19:3.4.A</u> <u>9VAC25-31-290.F.1</u> <u>9VAC25-31-290.F.3</u> <u>9VAC25-31-290.G</u></p>	<ul style="list-style-type: none"> • DEQ: <ol style="list-style-type: none"> 1. For the discharge point, mail notification to: <ol style="list-style-type: none"> a. Each riparian property owner to a distance one quarter mile down and up stream or to the fall line whichever is closer on tidal waters, and b. Each riparian property owner to a distance one half mile downstream on nontidal waters. 2. For the land application component: public meeting on application <ol style="list-style-type: none"> a. Newspaper notice of meeting no fewer than 7 or greater than 14 days prior to the meeting b. Allow 30 day comment period after the meeting c. Notify adjacent landowners of public meeting (not required in code) • Applicant: None <p>Citations: <u>§ 62.1-44.15:4.D</u> <u>§ 62.1-44.19:3.4.A</u> <u>9VAC25-31-290</u></p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
10	<p><u>VPDES Individual Permit with Land Application Component or Land Application Plan (LAP) for Biosolids²</u></p> <p><u>Reissuance with Acreage Increase $\geq 50\%$³ of Originally Permitted Acreage (not affecting discharge requirements)</u></p> <p><u>OR</u></p> <p><u>Acreage Increase $\geq 50\%$³ of Originally Permitted Acreage During Permit Term (not affecting discharge requirements)</u></p>	<ul style="list-style-type: none"> • DEQ: Mail notification to local governing bodies: <ol style="list-style-type: none"> 1. Upon receipt of application 2. Upon public notice of draft permit, or for the LAP, upon public notice of public meeting for biosolids acreage modification • Applicant: Notification to local governing bodies at least 100 days before land application (this may be satisfied through DEQ notifications noted above) <p>Citations: §62.1-44.19:3.4.A §62.1-44.19:3.C.10 §62.1-44.19:3.K § 62.1-44.15:01.A 9VAC25-31-290.F.1 9VAC25-31-290.G</p>	<ul style="list-style-type: none"> • DEQ: Public meeting on application <ol style="list-style-type: none"> 1. Newspaper notice of meeting no fewer than 7 or greater than 14 days prior to the meeting 2. Allow 30 day comment period after the public meeting 3. Notify adjacent landowners of public meeting (not required in code) • Applicant: None <p>Citations: § 62.1-44.19:3.4.A 9VAC25-31-290</p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
11	<p><u>VPDES Individual Permit with Land Application Component or LAP for Biosolids²</u></p> <p><u>Reissuance with Acreage Increase < 50%³ of Originally Permitted Acreage</u></p>	<ul style="list-style-type: none"> • DEQ: Mail notification to local governing bodies: <ol style="list-style-type: none"> 1. Upon receipt of application 2. Upon public notice of draft permit, or for the LAP, upon public notice of public meeting for biosolids acreage modification • Applicant: Notification to local governing bodies at least 100 days before land application (this may be satisfied through DEQ notifications noted above) <p>Citations: <u>§62.1-44.19:3.K</u> <u>§ 62.1-44.15:01.A</u> <u>9VAC25-31-290.F.1</u> <u>9VAC25-31-290.G</u></p>	<ul style="list-style-type: none"> • DEQ: Notify residents of property adjacent to additional land and allow 30 day comment period • Applicant: None <p>Citations: <u>§ 62.1-44.19:3.4.B</u> <u>§ 62.1-44.19:3.C.10</u> <u>9VAC25-31-290.F.4</u></p>
12	<p><u>VPDES Individual Permit with Land Application Component or LAP for Biosolids²</u></p> <p><u>Acreage Increase < 50%³ of Originally Permitted Acreage During Permit Term (not affecting discharge requirements or otherwise resulting in a permit modification).</u></p>	<ul style="list-style-type: none"> • DEQ: None • Applicant: notification to local governing bodies at least 100 days before land application <p>Citations: <u>§62.1-44.19:3.K</u></p>	<ul style="list-style-type: none"> • DEQ: Notify residents of property adjacent to additional land and allow 30 day comment period • Applicant: None <p>Citations: <u>§ 62.1-44.19:3.4.B</u> <u>§ 62.1-44.19:3.C.10</u> <u>9VAC25-31-290.F.4</u></p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
13	<p><u>VPDES Individual Permit without a Land Application Component or LAP for Biosolids², Treated Municipal Wastewater or Stabilized Septage (Includes VPDES permits with water reclamation and reuse, and land application of industrial sludge or treated industrial wastewater.)</u></p> <p>Issuances and Major Modification</p>	<ul style="list-style-type: none"> • DEQ: <ol style="list-style-type: none"> 1. Upon receipt of a permit application: <ol style="list-style-type: none"> a. For discharging activities, mail notification to: <ol style="list-style-type: none"> (1) Local governing body where discharge does or is proposed to take place (2) (From the discharge point) each locality to a distance one quarter mile down and upstream or to the fall line whichever is closer on tidal waters, and (3) (From the discharge point) each locality to a distance one half mile downstream on nontidal waters. b. For non-discharging activities: None. 2. Upon public notice of draft permit, mail notification to locality particularly affected • Applicant: None <p>Citations: <u>§ 62.1-44.15:01.A</u> <u>§ 62.1-44.15:4.D</u> <u>9VAC25-31-290.F</u> <u>9VAC25-31-290.G</u></p>	<ul style="list-style-type: none"> • DEQ: Upon receipt of a permit application: <ol style="list-style-type: none"> 1. For discharging activities, mail notification to: <ol style="list-style-type: none"> a. Each riparian property owner to a distance one quarter mile down and up stream or to the fall line whichever is closer on tidal waters, and b. Each riparian property owner to a distance one half mile downstream on nontidal waters. 2. For non-discharging activities: None. • Applicant: None <p>Citations: <u>§ 62.1-44.15:4.D</u> <u>9VAC25-31-290.F</u></p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
14	VPDES Individual Permit for Concentrated Animal Feeding Operations (CAFOs)	<ul style="list-style-type: none"> • Refer to VPDES CAFO permit guidance 	<ul style="list-style-type: none"> • Refer to VPDES CAFO permit guidance
15	<u>Administrative Authorization for Water Reclamation and Reuse in Association with an Existing VPDES Individual Permit</u>	<ul style="list-style-type: none"> • None 	<ul style="list-style-type: none"> • None

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
16	<p>VWP Individual Permit, Where Riparian Property Owners Exist</p> <p>Issuances or Major Modifications</p> <p>Minor Modification with Increased Impacts</p>	<ul style="list-style-type: none"> • DEQ: <ol style="list-style-type: none"> 1. Upon receipt of a permit application: <ol style="list-style-type: none"> a. For impacts, mail notification to: <ol style="list-style-type: none"> (1) Local governing body where impact is proposed to take place (2) (From the impact location) each locality to a distance one quarter mile down and up stream or to the fall line whichever is closer on tidal waters, and (3) (From the impact location) each locality to a distance one half mile downstream on nontidal waters. 2. Upon public notice of draft permit, mail notification to locality particularly affected • Applicant: None <p>Citations: § 62.1-44.15:01.A § 62.1-44.15:4.D</p>	<ul style="list-style-type: none"> • DEQ: Upon receipt of a permit application for impacts, mail notification to: <ol style="list-style-type: none"> 1. Each riparian property owner to a distance one quarter mile down and up stream or to the fall line whichever is closer on tidal waters, and 2. Each riparian property owner to a distance one half mile downstream on nontidal waters. <p>Note: There are joint application notice requirements for surface water supply projects that require both an individual VWP and a VMRC permit under 9VAC25-210-140 (applies to issuances).</p> • Applicant: <ol style="list-style-type: none"> 1. For surface water withdrawals, see pre-application public notice requirements for proposals of certain water supply projects in 9 VAC25-210-75B (applies to issuance and modifications). 2. For all other impacts: None <p>Citations: § 62.1-44.15:4.D</p>

	Permit Action	Locality Notification Requirement	Riparian Property Owner and Adjacent Property Owner/Resident Notification Requirement
17	<p>Certain VWP Individual Permit Actions</p> <p>Issuances or Major Modifications Where No Riparian Owner Exists</p> <p>Reissuances</p> <p>Minor Modifications with No Increase in Impacts</p>	<ul style="list-style-type: none"> • DEQ: <ol style="list-style-type: none"> 1. For permit applications, none. However, the Regional Office may choose to notify the local governments as described for applications to issue VWP individual permits. 2. For proposed permit issuances, reissuances or modifications, mail notification to the locality particularly affected. • Applicant: None <p>Citations: § 62.1-44.15:01.A</p>	<ul style="list-style-type: none"> • DEQ: None. However, riparian property owner notifications for applications to reissue existing VWP permits may be provided where there are changes proposed to the permit that, had they been proposed at any other time than permit reissuance would have been considered a modification. Note: VWP staff should only notify non-riparian, adjacent property owners if staff determines the project impacts will affect use of the non-riparian, adjacent property. • Applicant: None

² Biosolids refers to stabilized sewage sludge.

³ The increase in biosolids land application acreage for the current permit action is calculated as the sum of all acreage added to the permit through reissuance(s) and/or modification(s) since the last public meeting for the permit. Refer to Subdivision V.A.4 of this guidance for more details.

Appendix I. Detailed Background

Guidance Memorandum (GM) 96-008 was written to implement amendments to State Water Control Law (SWCL), specifically §[62.1-44.15:4 D](#) regarding local government notification for water permit applications and §[62.1-44.15:01](#) regarding notification to “localities particularly affected” and public notices for draft water permits. GM 97-2001 was developed to address further amendments to §[62.1-44.15:4 D](#) that occurred in 1997, and superseded only that part of GM 96-008 pertaining to local government notification for applications to issue new or modified permits authorizing discharges to surface waters. GM 97-2001 also introduced riparian and adjacent property owner notification requirements for these applications.

A. Guidance Memorandums (GMs) 96-008 and 97-2001

In 1994, §[62.1-44.15:01](#) and in 1996, § [62.1-44.15:4.D](#) were added to the SWCL. §[62.1-44.15:01](#) contains the following language regarding “localities particularly affected” by specific State Water Control Board (Board) actions:

“A. After June 30, 1994, before promulgating any regulation under consideration or granting any variance to an existing regulation, or issuing any permit, if the Board finds that there are localities particularly affected by the regulation, variance or permit, the Board shall:

1. Publish, or require the applicant to publish, a notice in a local paper of general circulation in the localities affected at least thirty days prior to the close of any public comment period. Such notice shall contain a statement of the estimated local impact of the proposed action, which at a minimum shall include information on the specific pollutants involved and the total quantity of each that may be discharged.
2. Mail the notice to the chief elected official and chief administrative officer and planning district commission for those localities.

Written comments shall be accepted by the Board for at least fifteen days after any hearing on the regulation, variance or permit, unless the Board votes to shorten the period.

For the purposes of this section, the term "locality particularly affected" means any locality that bears any identified disproportionate material water quality impact which would not be experienced by other localities.”

§ [62.1-44.15:4.D](#) contained the following local government notification required upon receipt of an application for a permit or modification of a permit:

“Upon receipt of an application for a permit or for a modification of a permit, the Board shall cause to be notified, in writing, the locality wherein the discharge does or is proposed to take place of, at a minimum: (i) the name of the applicant; (ii) the nature of the application and proposed discharge; and (iii) upon request, any other information known to, or in the possession of, the Board or the Department regarding the applicant not required to be held confidential by this chapter.”

Subsequently, GM 96-008 was developed to describe the implementation of §§[62.1-44.15.01](#) and [62.1-44.15:4.D](#), and included: (i) local government notification requirements for applications to issue, reissue or modify VPDES, VPA and VWP permits, as well as permits for corrective action plans (CAPs) and surface water or ground water withdrawals; and (ii) draft permit notification requirements for localities particularly affected by the activity to be authorized by the permit. Following the development of GM 96-008, the DEQ ceased issuing *water* permits for CAPs, thereby voiding the applicability of GM 96-008 to CAPs.

By e-mail dated April 19, 2005, public notice templates for draft water permits contained in GM 96-008 were informally superseded without replacement guidance. As part of community outreach initiative, DEQ Public Affairs staff significantly modified the public notice templates and posted them on the DEQnet. The purpose of this was to ensure that public notices advertised by the agency used less technical language that could be more easily comprehended by the general public. The revised notice templates meet the intent of §[62.1-44.15:01.A.1](#) by listing categories of pollutants (i.e., nutrients, metals, organic matter, solids, etc.) to identify “specific pollutants”, and at “amounts that protect water quality” to address “total quantity” of each pollutant.

In 1997, §[62.1-44.15:4 D](#) of SWCL was amended and currently states the following:

“Upon receipt of an application for the issuance of a new or modified permit other than those for agricultural production or aquacultural production activities, the Board shall notify, in writing, the locality wherein the discharge does or is proposed to take place of, at a minimum: (i) the name of the applicant; (ii) the nature of the application and proposed discharge; (iii) the availability and timing of any comment period; and (iv) upon request, any other information known to, or in the possession of, the Board or the Department regarding the applicant not required to be held confidential by this chapter. The Board shall make a good faith effort to provide this same notice and information to (i) each locality and riparian property owner to a distance one quarter mile downstream and one quarter mile upstream or to the fall line whichever is closer on tidal waters, and (ii) each locality and riparian property owner to a distance one half mile downstream on nontidal waters. Distances shall be measured from the point, or proposed point, of discharge. If the receiving river, at the point or proposed point of discharge, is two miles wide or greater, the riparian property owners on the opposite shore need not be notified. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdictions upon request by the Board.” (Emphasis added.)

GM 97-2001 was developed to explain the implementation of amended §[62.1-44.15:4 D](#), and superseded only that portion of GM 96-008 addressing local government notification for permit applications to *issue or modify* VPDES, VPA or VWP permits. GM 97-2001 also added riparian and adjacent property owner notification requirements for an application to issue a *new or modified* VPDES, VPA or VWP permit. Because amended §[62.1-44.15:4 D](#) is silent on applications to *reissue* permits, GM 97-2001 did

not interpret the requirements of §[62.1-44.15:4](#) D to apply to this type of permit action. Permit applications for surface water or ground water withdrawals were not specifically mentioned in GM 97-2001. However, VWP permits, which authorize surface water withdrawals among other activities, were addressed in this guidance.

Although §[62.1-44.15:4](#) D specifically addresses “riparian” owner notification of an application to “discharge”, GM 97-2001 more broadly interpreted the law to apply to VPA permitted pollutant management activities without a discreet discharge point as follows:

"For VPA permits there will not be a discharge point to identify, nor will there be a receiving stream. However, there will be a defined location for the pollutant management activity. In order to "make a good faith effort" to notify interested parties, this guidance recommends that, in addition to the local governments, all owners of property adjacent to the proposed pollutant management activity location be notified as specified by the law. This should satisfy the intent of the law and it may head off complaints/controversy from neighbors that could arise in the future if the activity begins without their prior knowledge."

In August 2008, DEQ Policy and Legislative Affairs staff reviewed GM 97-2001 and suggested changes in the guidance related to §[62.1-44.15:4](#) D and the applicability to VPA permit applications. Because VPA permits specifically authorize pollutant management activities that do not have a discharge to surface waters, local government and riparian property owner notification requirements of § [62.1-44.15:4](#) D do not apply to applications to issue a new or modified VPA permit. Consequently, there is no provision in SWCL that requires local government notification *for applications* to issue, reissue or modify individual VPA permits. However, [9VAC25-32-140](#).E of the VPA Permit Regulation requires the Board (or DEQ) upon receipt of an application for a permit or modification of a permit to “cause” to be notified the locality wherein the pollutant management activity does or is proposed to take place. Application for a permit used in this context refers to applications for both issuance and reissuance of a VPA permit. There are also no provisions in SWCL to require adjacent property owner notification for individual VPA permit applications with the exception of certain permit modification that propose to increase existing authorized acreage for land application of stabilized sewage sludge (hereafter referred to as biosolids) by less than 50 percent. Local government and adjacent property owner notification requirements for applications to issue, reissue or modify VPA permits (individual or general) are discussed in more detail in this guidance.

B. Animal Feeding Operations

In 1998, §[62.1-44.17:1](#) of SWCL was amended to add an adjacent property owner notification requirement for activities that qualified for the VPA general permit for animal feeding operations. The VPA General Permit Regulation for Animal Feeding Operations ([9VAC25-192](#)) was subsequently amended to reflect this change in the law and became effective December 1, 1998. This law and regulation *require a permittee* to submit with the registration statement, notification from the locality that the proposed animal feeding operation is consistent with the applicable ordinances of the locality, and evidence that adjoining property owners were notified of the operation.

In 1999, §[62.1-44.17:1.1](#) was added to SWCL and established the poultry waste management program. This amendment to the law also resulted in the VPA Permit Regulation for Poultry Waste Management ([9VAC25-630](#)) that became effective December 1, 2000. Both the law and regulation *require a*

permittee to submit with the registration statement, evidence that adjoining property owners were notified of the operation.

Neither [9VAC25-192](#) nor [9VAC25-630](#) require DEQ to notify the local government or adjoining landowners upon receipt of a registration statement for coverage under the VPA general permit for animal feeding operations or poultry waste management operations, respectively.

C. Biosolids

In 2007, §[62.1-44.19:3.C.10](#) and §[62.1-44.19:3.4](#) were added to SWCL and subsequently amended in 2009 to contain the following language:

§62.1-44.19:3.C.10

“Procedures for receiving and responding to public comments on applications for permits and for permit amendments authorizing land application at additional sites. Such procedures shall provide that an application for any permit amendments to increase the acreage authorized by the initial permit by 50 percent or more shall be treated as a new application for purposes of public notice and public hearings.”

§62.1-44.19:3.4

“A. Whenever the Department receives an application for land disposal of treated sewage, stabilized sewage sludge, or stabilized septage, the Department shall notify the local governing bodies where disposal is to take place of pertinent details of the proposal and establish a date for a public meeting to discuss technical issues relating to the proposal. The Department shall give notice of the date, time, and place of the public meeting and a description of the proposal by publication in a newspaper of general circulation in the city or county where land disposal is to take place. Public notice of the scheduled meeting shall occur no fewer than seven or more than 14 days prior to the meeting. The Board shall not issue the permit for land disposal until the public meeting has been held and comment has been received from the local governing body, or until 30 days have lapsed from the date of the public meeting. This section shall not apply to applications for septic tank permits.

B. When a farm is to be added to an existing permit authorizing land application of sewage sludge, the Department shall notify persons residing on property bordering such farm, and shall receive written comments from those persons for a period not to exceed 30 days. Based upon the written comments, the Department shall determine whether additional site-specific requirements should be included in the authorization for land application at the farm.”

Both the VPDES Permit Regulation ([9VAC25-31](#)) and the VPA Permit Regulation ([9VAC25-32](#)) were amended to reflect changes made to the law in 2007 and are currently undergoing further amendments to reflect changes made to the law in 2009.

D. Water Reclamation and Reuse

In 2000, §§[62.1-44.2](#) and [62.1-44.15](#) of SWCL were amended to: (i) redefine the purpose of the law to, among other things, promote and encourage the reclamation and reuse of wastewater in a manner protective of the environment and public health; and (ii) give authority to the State Water Control Board to establish requirements for the reclamation and reuse of wastewater as an alternative to directly discharging pollutants to state waters. Subsequently, these changes to the law resulted in the Water

Reclamation and Reuse Regulation ([9VAC25-740](#)) that became effective October 1, 2008. As stated in the regulation, water reclamation and reuse is to be authorized through the existing VPDES and VPA permit programs. VPDES permits may be issued to reclamation systems that discharge and VPA permits may be issued to non-discharging reclamation systems and reclaimed water distribution systems.