



[townhall.virginia.gov](http://townhall.virginia.gov)

## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	<b>State Water Control Board</b>
<b>Virginia Administrative Code (VAC) citation(s)</b>	<b>9VAC25-20 Primary Action; 9VAC25-31; 9VAC25-32</b>
<b>Regulation title(s)</b>	<b>Fees for Permits and Certificates; Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation; and Virginia Pollution Abatement (VPA) Permit Regulation</b>
<b>Action title</b>	<b>Amendments Related to Industrial Wastes to Address 2015 Legislation – Fees for Local Monitoring and Testing</b>
<b>Final agency action date</b>	<b>October 1, 2015</b>
<b>Date this document prepared</b>	<b>August 28, 2015</b>

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

*2015 House Bill 1364 and Senate Bill 1413 contained language to allow localities to adopt ordinances establishing a local monitoring program to test and monitor the land application of solid and semisolid industrial waste. The Bills also required the State Water Control Board to adopt regulations imposing a fee of \$5.00 per dry ton on the generators of solid or semisolid industrial waste land applied and establish necessary procedures for managing the funds. The Fees for Permits and Certificates regulation (9VAC25-20) is being revised to incorporate a fee of \$5.00, beginning January 1, 2016, on each dry ton of solid or semisolid industrial waste that is land applied, and establishes procedures for collecting the fees;*

depositing them into the sludge management fund and dispersing them to localities for the monitoring and testing of solid or semisolid industrial wastes.

The VPDES Permit Regulation and the VPA Permit Regulation are being revised to modify definitions and include new definitions specific to industrial wastes and address local enforcement regarding the land application of industrial wastes.

### Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

At the October 1, 2015 meeting, the DEQ staff intends to bring to the Board a request to accept as final, proposed amendments of regulations pertaining to the land application of industrial wastes. The regulatory action includes:

- 1) the Fees for Permits and Certificates (Fee) Regulation (9VAC25-20-10 et seq.)
- 2) the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31-10 et seq.), and
- 3) the Virginia Pollution Abatement (VPA) Permit Regulation (9 VAC 25-32-10 et seq.)

### Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no anticipated impact on the institution of the family and family stability.

### Public Comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Virginia Association of Municipal Wastewater Agencies, Inc. (VAMWA)	VAMWA supports the improvements that the proposed amendments will bring to land application of industrial wastes, but they ask that DEQ ensure that the fee is sufficient to support the program. VAMWA does not support subsidization of industrial waste monitoring with biosolids related fees.	Enactment clause #3 of HB1364 and SB 1413 stipulate that upon the effective date of the act, the fee will be \$5.00 per dry ton of solid or semisolid industrial wastes that are land applied. The additional fee will offset additional costs associated with local monitoring reimbursement. Existing permit application and annual maintenance fees for the land application of industrial wastes

		(which are higher than biosolids fees) support the permitting and compliance assurance functions at DEQ.
Goochland County Board of Supervisors (BOS)	Goochland County BOS suggests that the fee be equal to the Biosolids Fee of \$7.50 per dry ton land applied and is not aware of any studies indicating why the fee would be lower for industrial residuals.	Section 3 of the enactment clause stipulates that upon the effective date of the act, the fee will be \$5.00 per dry ton of solid or semisolid industrial wastes that are land applied. Permit application and annual maintenance fees for industrial wastes are higher than those for permits authorizing land application of biosolids.
Goochland County BOS	Goochland County BOS understands that legislation allows the localities to monitor land application; they believe that this activity should be the state's responsibility. With the diverse citizen opinions, they fear that they will not be able to satisfy opponents or proponents, given the narrow authority afforded the locality by legislation. These funds would be better served to hire more state inspectors	<a href="#">§ 62.1-44.15.(5a)</a> of the Code of Virginia requires DEQ to inspect all facilities for which a Virginia Pollution Abatement permit has been issued to ensure compliance with statutory, regulatory, and permit requirements. DEQ utilizes its own staff to ensure compliance. The local monitoring program is an optional opportunity for the local government to provide additional oversight of land application activities and participate directly in the compliance assurance process. Citizens may be reassured by having a monitor from their own community helping to oversee the land application activity. A local monitor also has the authority to stop an activity that is not in compliance with state and federal statutory, regulatory, or permit requirements.
Goochland County BOS	Goochland County BOS understands that DEQ offers training and has templates for local monitors to use. But, does DEQ provide detailed guidance regarding testing methodologies, parameters to test for, labs to use, and locations to sample? If the locality conducts sampling are they now responsible for enforcement?	DEQ offers group classroom as well as one-on-one training with the local monitors and through this training directs the local monitors to the documents where specific monitoring requirements are found. Parameters to be sampled are identified in the individual permits. The permits also specify the documents that identify required testing methodology. DEQ coordinates with the Virginia Department of General Services, Division of Consolidated Laboratory Services regarding approved laboratories.  DEQ can only reimburse localities for activities or testing associated with determining compliance with state or federal regulations. The results of any sampling conducted by local monitors must be submitted to DEQ. While the locality would have the authority to stop land application of material that sampling and analysis demonstrated did not meet statutory or regulatory requirements, any enforcement activities related to state or federal regulation is the responsibility of DEQ, not the locality.

Enter any other statement here

**All changes made in this regulatory action**

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
9VAC25-20-10		Definitions: "Dry tons"	Added "industrial residuals" to definition: "Dry tons" means dry weight established as representative of land applied biosolids <u>or industrial residuals</u> , and expressed in units of English tons.
9VAC25-20-10		Definitions: "Established fees"	Added "industrial residuals" to definition: "Established fees" means a fee established by the department per dry ton of biosolids <u>or industrial residuals</u> managed by land appliers.
9VAC25-20-10		Definitions: "Industrial residual"	New definition to clarify terminology: <u>"Industrial residual" means solid or semi-solid industrial waste including solids, residues, and precipitates separated or created by the unit processes of a device or system used to treat industrial wastes.</u>
9VAC25-20-10		Definitions" "Land application"	Modified definition of "Land application" to be consistent with definitions in 9VAC25-31 and 9VAC25-32, and incorporate industrial residuals: "Land application" means <u>in regard to sewage, biosolids and industrial residuals, the distribution of either treated wastewater of acceptable quality, referred to as effluent, or stabilized sewage sludge of acceptable quality, referred to as biosolids, or industrial residuals, upon, or insertion into, by spreading or spraying on the surface of the land, injecting below the surface of the land, or incorporating into the soil with a uniform application rate for the purpose of utilization, or assimilation fertilizing crops or vegetation or conditioning the soil. Bulk disposal of stabilized sludge or industrial residuals in a confined area, such as in landfills, is not land application. Sites approved for land application of biosolids in accordance with 9VAC25-31 or 9VAC25-32 are not to be considered to be treatment works.</u>

9VAC25-20-10		Definitions. "Land applier"	Added "industrial residuals" to definition: "Land applier" means someone who land applies biosolids <u>or industrial residuals</u> pursuant to a valid permit from the department as set forth in 9VAC25-31 or 9VAC25-32.
9VAC25-20-10		Definitions. "Reimbursement application"	Added "industrial residuals" to definition: "Reimbursement application" means forms approved by the department to be used to apply for reimbursement of local monitoring costs for land application of biosolids <u>or industrial residuals</u> in accordance with the provisions of this regulation. The application shall consist of a formal written request and any accompanying documentation submitted by a local government in accordance with a local ordinance.
9VAC25-20-20		Purpose.	Added a statement to acknowledge fees required for land application of industrial residuals: Section 62.1-44.15:6 of the Code of Virginia requires the promulgation of regulations establishing a fee assessment and collection system to recover a portion of the State Water Control Board's, Department of Game and Inland Fisheries', and the Department of Conservation and Recreation's direct and indirect costs associated with the processing of an application to issue, reissue, or modify any permit, permit authorization or certificate which the board has the authority to issue from the applicant for such permit, permit authorization or certificate. Section 62.1-44.19:3 of the Code of Virginia requires the promulgation of regulations establishing a fee to be charged to all permit holders and persons applying for permits and permit modifications associated with land application of biosolids. Section 62.1-44.19:3 of the Code of Virginia also requires the promulgation of regulations requiring the payment of a fee by persons land applying biosolids. <u>Section 62.1-44.16 of the Code of Virginia requires the promulgation of regulations requiring the payment of a fee by persons land applying solid or semisolid industrial wastes.</u> These regulations establish the required fee assessment and collection system.
9VAC25-20-40.A.3		Applicability.	Added "industrial residuals" to statement regarding land appliers: A. this chapter applies to: 3. All land appliers land applying biosolids <u>or industrial residuals</u> on permitted sites in the

			Commonwealth of Virginia. The fee due shall be as specified under 9VAC25-20-146.
9VAC25-20-60.D.		Due dates.	Added "industrial residuals" to requirement: <del>Biosolids land</del> Land application fees for <u>biosolids and industrial residuals</u> . The department may bill the land applier for amounts due following the submission of the monthly land application report. Payments are due 30 days after receipt of a bill from the department. No permit or modification of an existing permit will be approved in the jurisdiction where payment of the established fee by the land applier has not been received by the due date; until such time that the fees are paid in full. Existing permits may be revoked or approved sources may be reclassified as unapproved unless the required fee is paid by the due date. No permit will be reissued or administratively continued or modified without full payment of any past due fee.
9VAC25-20-90.A		Deposit and use of fees:	Added "industrial residuals" to deposit and payment procedures: Sludge Management Fund. All <del>biosolids</del> land application fees collected from permit holders who land apply <u>biosolids or industrial residuals</u> in the Commonwealth of Virginia, and fees collected from permit holders and persons applying for permits and permit modifications pursuant to § 62.1-44.19:3 of the Code of Virginia shall be deposited into the Sludge Management Fund established by, and used and accounted for as specified in <u>§ §§ 62.1-44.16 and 62.1-44.19:3</u> of the Code of Virginia. Payments to the Department of Conservation and Recreation for their costs related to implementation of the biosolids land application program and to localities with duly adopted ordinances providing for the testing and monitoring of the land application of <u>biosolids or industrial residuals</u> will be made from this fund. Fees collected shall be exempt from statewide indirect costs charged and collected by the Department of Accounts and shall not supplant or reduce the general fund appropriation to the department.
9VAC25-20-100		General	Added "industrial residuals" to description: Each application for a new permit, permit authorization or certificate, each application for reissuance of a permit, permit authorization or certificate, each application for major modification of a permit, permit authorization or certificate, each revocation and reissuance of a permit, permit

			authorization or certificate, and each application of a dry ton of biosolids <u>or industrial residuals</u> is a separate action and shall be assessed a separate fee, as applicable. The fees for each type of permit, permit authorization or certificate that the board has the authority to issue, reissue or modify will be as specified in this part.
9VAC25-20-Part IV		Part IV – Biosolids Fees and Reimbursable Costs	Added “industrial residuals” to title: Biosolids and Industrial Residuals Fees and Reimbursable Costs
9VAC25-20-146.A		Part IV – Biosolids Fees and Reimbursable Costs – Established fees	Added requirements for fees related to the land application of industrial residuals: A. Land appliers shall remit the established fees to the department as specified in this regulation. The land appliers shall collect the required fees from the owners of the sewage treatment works and facilities that generate the Class B biosolids and exceptional quality biosolids cake that are land applied. <u>The land appliers shall collect the required fees from the owners of the industrial waste treatment facilities and other facilities that generate the industrial residuals that are land applied in localities that have adopted ordinances in accordance with § 62.1-44.16.D. of the Code of Virginia.</u> Such works and facilities shall be approved sources of biosolids <u>or industrial residuals</u> in accordance with <del>this regulation</del> <u>9VAC25-31 or 9VAC25-32.</u> Land application shall only include biosolids <u>or industrial residuals</u> from approved sources as listed in the land application permit. The established fee shall be imposed on each dry ton of Class B biosolids and exceptional quality biosolids cake that is land applied in the Commonwealth of Virginia in accordance with 9VAC25-31 or 9VAC25-32. <u>The established fee shall be imposed on each dry ton of industrial residuals that is land applied in localities that have adopted ordinances in accordance with § 62.1-44.16.D. of the Code of Virginia.</u>
	9VAC25-20-146.B.3	Part IV – Biosolids Fees and Reimbursable Costs – Established fees.	Added fee rate related to the land application of industrial residuals: The amount of the established fee and disbursement are as follows: 3. The fee shall be \$5.00 per dry ton of <u>industrial residuals land applied in localities that have adopted ordinances in accordance with § 62.1-44.16.D. of the Code of Virginia.</u>
9VAC25-20-146.B.3	9VAC25-20-146.B.4	Part IV – Biosolids Fees and Reimbursable Costs –	Renumbered to accommodate insertion of new “B.3” and distinguished fees for

		Established fees.	biosolids or industrial residuals: <del>3-4.</del> Disbursement of the established fees collected by the department <u>for the land application of biosolids or industrial residuals</u> shall be made to reimburse or partially reimburse those counties, cities and towns with duly adopted local ordinances that submit documentation of reimbursable expenses acceptable to the department as provided for in this regulation.
9VAC25-20-146.B.4	9VAC25-20-146.B.5	Part IV – Biosolids Fees and Reimbursable Costs – Established fees.	Renumbered to accommodate insertion of new “B.3” and distinguished that disbursement to DCR is just for biosolids: <del>4- 5.</del> Disbursement of the established fees collected by the department <u>for the land application of biosolids</u> shall be made to reimburse the Department of Conservation and Recreation’s costs for implementation of the biosolids application program.
9VAC25-20-147.A		Part IV – Biosolids Fees and Reimbursable Costs – Records and reports.	Added “industrial residuals” to itemized list regarding recordkeeping: A. Records. Permittees shall maintain complete records of the land application activities and amounts of Class B biosolids, <del>and</del> exceptional quality biosolids cake <u>and industrial residuals</u> that they land apply in the Commonwealth of Virginia. Such records shall be maintained by the permittee for five years after the date of the activity in a form that is available for inspection by the department. Records of land application activities shall include at minimum:
9VAC25-20-147.A.3.		Part IV – Biosolids Fees and Reimbursable Costs – Records and reports.	Added “industrial residuals” to itemized list regarding recordkeeping: 3. The source of <del>biosolids, whether the biosolids are</del> Class B biosolids, <del>or</del> exceptional quality biosolids cake, <del>or</del> <u>industrial residuals</u> and <u>the</u> field area receiving those biosolids <del>or industrial residuals</del> .
9VAC25-20-147.A.4		Part IV – Biosolids Fees and Reimbursable Costs – Records and reports.	Added “industrial residuals” to itemized list and distinguished the classes of biosolids regarding recordkeeping: 4. The amount of <u>Class B biosolids, exceptional quality biosolids cake, or industrial residuals</u> applied in dry tons, <del>by class,</del> and the method and calculations used to determine the reported value.
9VAC25-20-147.B		Part IV – Biosolids Fees and Reimbursable Costs – Records and reports.	Added “industrial residuals” to itemized list regarding reporting: B. Reports and notification. The permittee shall submit a monthly report by the 15th day of each month for land application activity that occurred in the previous

			calendar month, unless another date is specified in the permit in accordance with 9VAC25-32-80 I 4. The report shall include (i) the recorded information listed in subsection A of this section and (ii) a calculation of the total fee. The submitted report shall include a summary list of the total amount of Class B biosolids, <del>and</del> exceptional quality biosolids cake <del>and</del> industrial residuals land-applied and the calculated fee based on the land-applied Class B biosolids, <del>and</del> exceptional quality biosolids cake <del>and</del> industrial residuals for each county in which land application occurred. If no land application occurs under a permit during the calendar month, a report shall be submitted stating that no land application occurred.
9VAC25-20-148.A.2		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursable local monitoring costs	Added “industrial residuals” to items for which delivery off samples to a laboratory is reimbursable: 2. Charges and expenses, including local travel for site monitoring, inspections, collection and delivery of biosolids, <u>industrial residuals</u> or soil samples to a nearby laboratory and examination of records.
9VAC25-20-148.A.5		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursable local monitoring costs	Added “industrial residuals” to items for which sample testing costs are reimbursable: 5. Charges for biosolids, <u>industrial residuals</u> and soil sample testing costs.
9VAC25-20-149.A.		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursement of local monitoring costs	Added “industrial residuals” to items for which reimbursement is available: A. Reimbursement of local monitoring costs deemed reasonable by the department will be made for costs up to \$2.50 per dry ton of biosolids <u>or</u> industrial residuals land applied in a county during the period of time specified in the submitted invoice. Costs of up to \$4.00 per dry ton of biosolids <u>or</u> industrial residuals land applied in a county during the period of time that the costs were incurred may be reimbursed with prior approval from the department.
9VAC25-20-149.B		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursement of local monitoring costs	Deleted “biosolids” from phrase “biosolids monitor”, to describe monitors of biosolids or industrial wastes: B. Application. A local government must submit a reimbursement application to request reimbursement from the department. All information shall be clearly typed or printed and all required or supporting documents must be attached. The county administrator or designated local biosolids-monitor shall sign and date the

			application where indicated. The original signed application with one copy of each of the supporting documents shall be submitted to the department. Applications may not be submitted by facsimile or through electronic means. A reimbursement invoice form as described in this regulation must be completed before a reimbursement application can be submitted. The invoice form must include all expenses for which reimbursement is requested during the designated time period.
9VAC25-20-149.C.1		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursement of local monitoring costs	Deleted “biosolids” from phrase “local biosolids monitor”, to describe monitors of biosolids or industrial wastes: 1. Form 1 - Reimbursement Application. An invoice form shall be submitted with each application for reimbursement. The invoice form shall list all reimbursable charges. To be reimbursed for eligible expenses, an applicant must provide documentation to demonstrate that the expenses were incurred. Invoices are acceptable proof of incurred expenses. Invoices signed by the local <del>biosolids</del> monitor or agent who performed or managed the monitoring activities shall be legible. All invoices are to include the following:
9VAC25-20-149.C.1.c		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursement of local monitoring costs	Replaced phrase “biosolids contractor” with more general phrase “land applier”: c. <del>Biosolids contractor’s</del> <u>Land applier’s</u> name;
9VAC25-20-149.C.1.e		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursement of local monitoring costs	Deleted “biosolids” from phrase “biosolids monitor”, to describe monitors of biosolids or industrial wastes; added “local” for consistency: e. Name of <del>biosolids</del> <u>local</u> monitor;
9VAC25-20-149.E.5.g		Part IV – Biosolids Fees and Reimbursable Costs – Reimbursement of local monitoring costs	Added “industrial residuals” to reimbursable items: g. Failure to obtain prior approval from the department for costs that exceed \$2.50 per dry ton of biosolids <u>or industrial residuals</u> land applied.
9VAC25-31-10		Definitions: “Industrial residual”	New definition to clarify terminology: <u>“Industrial residual” means solid or semi-solid industrial waste including solids, residues, and precipitates separated or created by the unit processes of a device or system used to treat industrial wastes.</u>
9VAC25-31-10		Definitions: “Industrial wastes”	New definition (repeated from statute) to clarify terminology: <u>“Industrial wastes” means liquid or other wastes resulting from any process of industry, manufacture, trade, or business, or from the development of any natural resources.”</u>

<p>9VAC25-31-10</p>		<p>Definitions: "Land application"</p>	<p>New definition to clarify terminology: <u>"Land application" means, in regard to sewage, biosolids and industrial residuals, the distribution of treated wastewater of acceptable quality, referred to as effluent, or stabilized sewage sludge of acceptable quality, referred to as biosolids, or industrial residuals by spreading or spraying on the surface of the land, injecting below the surface of the land, or incorporating into the soil with a uniform application rate for the purpose of fertilizing crops or vegetation or conditioning the soil. Sites approved for land application of biosolids in accordance with this chapter are not to be considered to be treatment works. Bulk disposal of stabilized sludge or industrial residuals in a confined area, such as in landfills, is not land application. For the purpose of this chapter, the use of biosolids in agricultural research and the distribution and marketing of exceptional quality biosolids are not land application.</u></p>
<p>9VAC25-31-10</p>		<p>Definitions: "local ordinance"</p>	<p>New definition to clarify terminology: <u>"Local ordinance" means an ordinance adopted by counties, cities, or towns in accordance with § 62.1-44.16 or 62.1-44.19:3 of the Code of Virginia.</u></p>
<p>9VAC25-31-475</p>		<p><b>Local enforcement of biosolids regulations.</b></p>	<p>Moved entire section from Part VI – Standards for the Use of Biosolids or Disposal of Sewage Sludge to Part VIII – Enforcement, to include industrial residuals: <b>9VAC25-31-475. Local enforcement of biosolids regulations. (Repealed.)</b> <del>A. In the event of a dispute concerning the existence of a violation between a permittee and a locality that has adopted a local ordinance for testing and monitoring of the land application of biosolids, the activity alleged to be in violation shall be halted pending a determination by the director. B. Upon determination by the director that there has been a violation of § 62.1-44.19:3, 62.1-44.19:3.1 or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under those sections, and that such violation poses an imminent threat to public health, safety or welfare, the department shall commence appropriate action to abate the violation and immediately notify the chief administrative officer of any locality potentially affected by the violation. C. Local governments shall promptly notify the department of all results from the testing</del></p>

			<p>and monitoring of the land application of biosolids performed by persons employed by local governments and any violation of § 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia.</p> <p>D. Local governments receiving complaints concerning land application of biosolids shall notify the department and the permit holder within 24 hours of receiving the complaint.</p>
9VAC25-31-475.A	9VAC25-31-915.A	<b>Local enforcement.</b>	<p>Moved from 9VAC25-31-475.A and added "industrial residuals" to items monitored or tested by local monitor:</p> <p><u>A. In the event of a dispute concerning the existence of a violation between a permittee and a locality that has adopted a local ordinance for testing and monitoring of the land application of biosolids or industrial residuals, the activity alleged to be in violation shall be halted pending a determination by the director.</u></p>
9VAC25-31-475.B	9VAC25-31-915.B	<b>Local enforcement.</b>	<p>Moved from 9VAC25-31-475.B and added language from statute regarding industrial wastes and referenced permits issued for land application of "industrial residuals":</p> <p><u>B. Upon determination by the director that there has been a violation of § 62.1-44.16, 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under those sections, or of any permit or certificate issued for land application of industrial residuals, and that such violation poses an imminent threat to public health, safety or welfare, the department shall commence appropriate action to abate the violation and immediately notify the chief administrative officer of any locality potentially affected by the violation.</u></p>
9VAC25-31-475.C	9VAC25-31-915.C	<b>Local enforcement.</b>	<p>Moved from 9VAC25-31-475.C and added statute regarding industrial wastes and referenced permits issued for land application of "industrial residuals":</p> <p><u>C. Local governments shall promptly notify the department of all results from the testing and monitoring of the land application of biosolids or industrial residuals performed by persons employed by local governments and any violation of § 62.1-44.16, 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia or of any permit or certificate issued for land application of industrial residuals discovered by local governments.</u></p>

9VAC25-31-475.D	9VAC25-31-915.D	<b>Local enforcement.</b>	Moved from 9VAC25-31-475.D and added "industrial residuals" to materials land applied: <u>D. Local governments receiving complaints concerning land application of biosolids or industrial residuals shall notify the department and the permit holder within 24 hours of receiving the complaint.</u>
9VAC25-32-10		Definitions: "Dry tons"	Added "industrial residuals" to definition: "Dry tons" means dry weight established as representative of land applied biosolids <u>or industrial residuals</u> , and expressed in units of English tons.
9VAC25-32-10		Definitions: "Dry weight"	Added "industrial residuals" to definition: "Dry weight" means the measured weight of a sample of sewage sludge or, biosolids, <u>or industrial residuals</u> after all moisture has been removed in accordance with the standard methods of testing and often represented as percent solids
9VAC25-32-10		Definitions: "Industrial residual"	New definition to clarify terminology: <u>"Industrial residual" means solid or semi-solid industrial waste including solids, residues, and precipitates separated or created by the unit processes of a device or system used to treat industrial wastes.</u>
9VAC25-32-10		Definitions: "Land application"	Added "industrial residuals" to definition and made consistent with definitions in other regulations: "Land application" means, in regard to <u>sewage, biosolids and industrial residuals</u> , the distribution of <del>either</del> -treated wastewater, referred to as "effluent," <del>or</del> -stabilized sewage sludge, referred to as "biosolids," <u>or industrial residuals</u> by spreading or spraying on the surface of the land, injecting below the surface of the land, or incorporating into the soil with a uniform application rate for the purpose of fertilizing <del>the crops and</del> or vegetation or conditioning the soil. Sites approved for land application of biosolids in accordance with this regulation are not to be considered to be treatment works. Bulk disposal of stabilized sludge <u>or industrial residuals</u> in a confined area, such as in landfills, is not land application. For the purpose of this regulation, the use of biosolids in agricultural research and the distribution and marketing of exceptional quality biosolids are not land application.
9VAC25-32-10		Definitions: "Land applier"	Added "industrial residuals" to definition: "Land applier" means someone who land applies biosolids <u>or industrial residuals</u> pursuant to a valid permit from the department as set forth in this regulation.

9VAC25-32-10		Definitions: "Local ordinance"	Added statute regarding industrial wastes to definition: "Local ordinance" means an ordinance adopted by counties, cities, or towns in accordance with § 62.1-44.16 or 62.1-44.19:3 of the Code of Virginia.
9VAC25-32-10		Definitions: "Reimbursement application"	Deleted definition, not used in regulation: "Reimbursement application" means forms approved by the department to be used to apply for reimbursement of local monitoring costs for land application of biosolids in accordance with a local ordinance.
9VAC25-31-475		<b>Local enforcement of biosolids regulations.</b>	Moved entire section from Part VI – Standards for the Use of Biosolids or Disposal of Sewage Sludge to Part VIII – Enforcement, to include industrial residuals: <b>9VAC25-31-475. Local enforcement of biosolids regulations.(Repealed.)</b> A. In the event of a dispute concerning the existence of a violation between a permittee and a locality that has adopted a local ordinance for testing and monitoring of the land application of biosolids, the activity alleged to be in violation shall be halted pending a determination by the director. B. Upon determination by the director that there has been a violation of § 62.1-44.19:3, 62.1-44.19:3.1 or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under those sections, and that such violation poses an imminent threat to public health, safety or welfare, the department shall commence appropriate action to abate the violation and immediately notify the chief administrative officer of any locality potentially affected by the violation. C. Local governments shall promptly notify the department of all results from the testing and monitoring of the land application of biosolids performed by persons employed by local governments and any violation of § 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia. D. Local governments receiving complaints concerning land application of biosolids shall notify the department and the permit holder within 24 hours of receiving the complaint.
9VAC25-32-320.A	9VAC25-32-285.A	<b>Local enforcement.</b>	Moved from 9VAC25-32-320.A and added "industrial residuals" to items monitored or tested by local monitor: A. In the event of a dispute concerning the existence of a violation between a permittee and a locality that has adopted a local

			<u>ordinance for testing and monitoring of the land application of biosolids or industrial residuals, the activity alleged to be in violation shall be halted pending a determination by the director.</u>
9VAC25-32-320.B	9VAC25-32-285.B	<b>Local enforcement.</b>	Moved from 9VAC25-32-320.B and added statute regarding industrial wastes and referenced permits issued for land application of "industrial residuals": B. Upon determination by the director that <u>there has been a violation of § 62.1-44.16, 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under those sections, or of any permit or certificate issued for land application of industrial residuals, and that such violation poses an imminent threat to public health, safety or welfare, the department shall commence appropriate action to abate the violation and immediately notify the chief administrative officer of any locality potentially affected by the violation.</u>
9VAC25-32-320.C	9VAC25-32-285.C	<b>Local enforcement.</b>	Moved from 9VAC25-32-320.C and added statute regarding industrial wastes and referenced permits issued for land application of "industrial residuals": C. <u>Local governments shall promptly notify the department of all results from the testing and monitoring of the land application of biosolids or industrial residuals performed by persons employed by local governments and any violation of § 62.1-44.16, 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia or of any permit or certificate issued for land application of industrial residuals discovered by local governments.</u>
9VAC25-32-320.D	9VAC25-32-285.D	<b>Local enforcement.</b>	Moved from 9VAC25-32-320.D and added "industrial residuals" to materials land applied: D. <u>Local governments receiving complaints concerning land application of biosolids or industrial residuals shall notify the department and the permit holder within 24 hours of receiving the complaint.</u>
9VAC25-32-320		<b>Local enforcement of the regulation.</b>	Moved entire section from Part IX –Biosolids Program to Part VII – Enforcement, to include industrial residuals: <b>9VAC25-32-320. Local enforcement of the regulation. (Repealed.)</b> <del>A. In the event of a dispute concerning the existence of a violation between a permittee and a locality that has adopted a local ordinance for testing and monitoring of the land</del>

			<p>application of biosolids, the activity alleged to be in violation shall be halted pending a determination by the director.</p> <p>B. Upon determination by the director that there has been a violation of § 62.1-44.19:3, 62.1-44.19:3.1 or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under those sections, and that such violation poses an imminent threat to public health, safety or welfare, the department shall commence appropriate action to abate the violation and immediately notify the chief administrative officer of any locality potentially affected by the violation.</p> <p>C. Local governments shall promptly notify the department of all results from the testing and monitoring of the land application of biosolids performed by persons employed by local governments and any violation of § 62.1-44.19:3, 62.1-44.19:3.1, or 62.1-44.19:3.3 of the Code of Virginia.</p> <p>D. Local governments receiving complaints concerning land application of biosolids shall notify the department and the permit holder within 24 hours of receiving the complaint.</p>
--	--	--	---

Enter any other statement here

**Regulatory flexibility analysis**

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The options for regulatory flexibility were limited in this action due to applicable federal law and regulation and specifically the state law and enactment clause driving this exempt action. Changes were limited to procedures for the collection fees for the land application of industrial wastes; the disbursement of collected fees; supporting definitions; necessary recordkeeping and reporting; and the authority allowed the localities for the monitoring and testing of the land application of industrial wastes.