

**Draft 5—November 2004**  
PROPOSED AMENDMENTS TO THE  
BIOSOLIDS USE REGULATIONS (12 VAC 5-585)

**12VAC 5-585-760. Certificate requirements for land applicators.**

A. No person shall land apply biosolids pursuant to a permit issued in accordance with this chapter unless an individual holding a valid certificate of competence as specified in this chapter (certified land applicator) is onsite at all times during such land application.

A certified land applicator ~~is may be~~ considered to be onsite if they are at the site permitted for land application and, if it is necessary to leave the site, they are available within 30 minutes to return to the site to verify and ensure that land application of

biosolids is in compliance with the issued permit. ~~A certified land applicator shall have~~

~~the certificate number issued by VDH and personal identification with them at the land~~

~~application site.~~ A certified land applicator shall possess the site specific permit

information necessary to conduct land application on the site in accordance with the

issued permit and make available at the land application site proper identification,

including their certificate number issued by VDH. ~~Monthly Reports submitted in~~

accordance with the requirements of this chapter (12 VAC 5-585-370B) shall bear the

name and certificate number of the certified land applicator with an approved statement

attesting that they were onsite at the times of the reported operations and that those

operations were in compliance with the permit. The following parts of this chapter apply

to any individual seeking a certificate of competence as required in §32.1-164.6 of the

Code of Virginia.

1 B. Certificates of competence shall be issued by the Department to certified land  
2 applicators. The Department may issue such certification based on specified areas of  
3 training, experience and level of knowledge as demonstrated through successful  
4 completion of examinations as acceptable to the Department.

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6 **12VAC 5-585-770. Eligibility requirements.**

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8 A. Certification may be obtained by satisfying all of the following requirements:

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10 1. Satisfactorily completing and submitting to the Department an application in the form  
11 required by the Department, including a statement of any felony convictions. Such  
12 application shall be submitted to the Department at least 30 days before the scheduled  
13 examination date set by the Department. The application shall request information  
14 relating to the person's education, work experience, knowledge of land application of  
15 biosolids and applicable regulations, and willingness to abide by the requirements of this  
16 chapter.

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18 2. Supplying proof of meeting one of the following:

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20 a. A copy of a transcript or similar documentation indicating completion of a high school  
21 or higher degree or equivalent education level, with work experience in an agriculturally  
22 related area including farming, and three months of practical experience related to land  
23 application of biosolids acceptable to the Department, or

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b. A combination of training acceptable to the Department that may include soil science or nutrient management or farming practice related educational training and a minimum of six months of practical experience related to land application of biosolids,or

c. Evidence of prior supervisory level experience with land application of biosolids of two or more years that is acceptable to the Department.

3. Obtaining a passing score on each part of the land applicators certification examination administered by the Department; and

4. Submitting the required certification fee by check or money order to the Department.

B. Certificates shall be valid upon notification by the Department and for two years following each renewal from the established renewal date and will expire on the last day of the expiration month. Certified land applicators or applicants shall notify the Department of any change in mailing address within 30 days of such change in address.

C. The Department, upon review, may accept or approve land applicator certification programs of other states as satisfying partial requirements for certification.

Individuals certified as land application operators in other states under certification or licensing programs acceptable to the Department will be eligible for certification in Virginia by complying with all requirements of these regulations except for subdivision

1 A 2 of this section. These individuals may also substitute, for the requirements in this  
2 chapter, 12VAC 5-585-790, the attainment of a passing score on a Virginia specific  
3 examination component which shall include at a minimum the elements listed in 12VAC  
4 5-585-790C 1 and C 6.

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6 **12 VAC 5-585-780. Fees.**

7 A. Fees shall be collected for certification and recertification to defray the administrative  
8 cost for the certification program.

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10 B. A fee may be charged to supply training materials and present education and training  
11 programs, including continuing education, which support the certification program.

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13 C. Fees are nonrefundable and shall not be prorated.

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15 D. The certification fee of \$100 for the initial certification period shall be due with the  
16 application for certification. If the applicant is unsuccessful in achieving a passing score  
17 on the examination, the applicant is eligible to retake the examination at a scheduled time  
18 as offered by the Department. Applicants may retake the examination one time with no  
19 additional charge by resubmitting the application for certification. Eligibility for any  
20 additional examinations beyond the initial retaking will require the submittal of an  
21 application and appropriate fees.

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23 E. The certificate of competence renewal fee is \$100.

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F. All fees collected by the Department shall be deposited in a special fund in the state treasury established as the Land Applicator Training and Certification Fund and shall be used exclusively for the operation of the Land Applicator Training and Certification Program. The State Treasurer shall be the custodian of the moneys deposited in the fund. No part of the fund, either principal or interest earned thereon, shall revert to the general fund of the state treasury.

**12 VAC 5-585-790. Examination.**

A. The Department may offer the land applicator certification examinations on request and will schedule an examination at least once per year. The examinations shall require a demonstration of the ability to ensure that biosolids will be land applied in compliance with the requirements of this chapter. The Department may limit the number of applicants taking the examination based upon available examination space.

B. Applicants for a certificate of competence shall achieve a passing score on each part of the land applicator certification examination to become eligible for certification. If the applicant receives a passing score on any part of the examination they will only be retested on on the remaining parts.

C. The examinations for qualified applicants for a certificate of competence in accordance with this chapter shall address the elements listed below.

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1. General understanding of biosolids treatment processes and biosolids characteristics;

2. Basic principles of soils, agriculture, and silviculture;

3. Public health protection concepts;

4. Land application concepts and site management and operations;

5. Occupational safety and health protection concepts; and

6. Land application training and certification regulatory requirements, and requirements of other land application related laws, regulations, and incentive programs.

D. An individual who is unable to take an examination at the scheduled time shall notify the Department at least five days prior to the date of the examination; such individual may reapply for an examination. The Department may consider accepting notice of less than five days due to individual hardship situations on a case-by-case basis. Failure to notify the Department may require the individual to submit a new application and payment of fees in accordance with 12 VAC 5-585-780.

1 E. The Department shall establish acceptable passing scores for the examinations based  
2 on the Department's determination of the level of examination performance required to  
3 show minimal acceptable competence.

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5 F. All applicants shall be notified of results in writing within 60 days of the completion of  
6 the examinations.

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8 G. A certificate renewal date will be established and provided to the certified land  
9 applicator.

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11 **12 VAC 5-585-800. Training.**

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13 A. The Department shall provide training sessions on the various topics essential to  
14 ensure that land application of biosolids complies with state and federal laws and  
15 regulations at least annually.

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17 B. The Department may provide a training course on concepts supporting and relating to  
18 land application of biosolids which may include: biosolids use regulation; basic soil and  
19 crop science; soil fertility; environmental management; and other relevant topics.

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21 **12 VAC 5-585-810. Certificate renewal.**

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23 The Department may not renew a certificate if a proceeding to deny certification under 12  
24 VAC5-585-830 has begun, or if the Department has found that the applicant violated any

1 requirements of this chapter. A certificate is to be renewed every two years and may be  
2 renewed on or before the expiration of a certificate by complying with all of the  
3 following requirements:

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5 1. Submittal of a renewal application on the form the Department requires;

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7 2. Payment of the renewal fee to the Department;

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9 3. Submittal of proof of satisfactory completion of at least four hours of continuing  
10 education course work within the past two years. The completed course work must be  
11 approved by the Department as providing satisfactory training. Requests for pre-approval  
12 of continuing education courses should be received at least 60 days prior to the expected  
13 course date(s) and must include a detailed syllabus indicating time to be spent on each  
14 topic area covered. Continuing education course work must be in subject matter  
15 consistent with 12 VAC5-585-790 C. Department personnel may attend continuing  
16 education sessions to verify that the requirements are met. Proof of attendance must be  
17 verified by the course provider. The Department may accept continuing education units  
18 obtained in other states if such continuing education units are specifically for the purpose  
19 of recertification in the state land application operator certification program.

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21 **12 VAC 5-585-820. Certificate expiration.**

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23 A. Certificates issued under this chapter shall expire two years from the last day of the  
24 month in which they were issued, as indicated on the certificate, if any of



1 the requirements of 12 VAC 5-585-810 are not met.

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3 B. Following the expiration of a certificate, reinstatement may be accomplished only by  
4 reapplication and compliance with all requirements of 12 VAC5-585-770 A, including  
5 the examination requirements.

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7 C. It is the responsibility of the certified land applicator to accumulate the required  
8 continuing education requirements prior to expiration of the certificate of competence  
9 they hold. The Department will attempt to notify the certified land applicators of any  
10 continuing education needs and other requirements as necessary for certificate renewal 90  
11 days or more prior to certificate expiration.

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13 **12 VAC 5-585-830. Compliance with regulations and disciplinary action.**

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16 A. If the Department finds that a certified land applicator or an applicant for certification  
17 violated any applicable requirements of this chapter, including the procedural violations  
18 listed in part B of this section, the Department may deny, suspend or revoke certification,  
19 following the informal fact-finding procedures of the Virginia Administrative Process  
20 Act (§2.2-4019 et seq. of the *Code of Virginia*).

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22 B. Certification procedural violations include:

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24 1. Providing misleading, false, or fraudulent information in applying for a certificate;

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- 1 2. Providing the Department with any misleading, false, or fraudulent report;  
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- 3 3. Failing to ensure that land application of biosolids complies with permit requirements  
4 in accordance with Sections 490 through 510 of this chapter due to negligence of  
5 responsibilities by the certified land applicator;  
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- 7 4. Failing to promptly and accurately record observed permit non-compliance or, failure  
8 to promptly notify the permittee of observed permit non-compliance or, preventing access  
9 to inspect any land application site or, failure to provide required field records upon  
10 request, in accordance with this chapter; and  
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- 12 5. Conviction of a felony related in any way to the responsibilities of a certified land  
13 applicator.  
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