


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

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Subject: Water Guidance Memo No. 18-2006
Reissuance Procedures for VPA Biosolids Land Application Permits

To: Regional Directors

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Copies: Deputy Regional Directors, SWRO and TRO Regional Water Permit Managers,
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Summary: The purpose of this guidance is to provide general guidelines to DEQ VPA permit staff regarding the approval and management of permit applications received for the reissuance of VPA permits that authorize the land application of biosolids. The procedures in this guidance related to adjacent landowner notification, public meetings, and newspaper public notice supersede any procedures which may be found in any previous Water Guidance documents pertaining to public notice of biosolids permit reissuances.

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/>.

Contact Information:

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

Disclaimer:

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

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I. Introduction

The following guidance provides general guidelines to DEQ VPA permit staff regarding the approval and management of permit applications received for the reissuance of VPA permits that authorize the land application of biosolids. This guidance will address how the permit writer is to manage the processing of permit applications, based on their status of completeness on the due date, as well as what the permit writer needs to have in hand in order to deem a permit application administratively complete and technically complete.

II. Authority

DEQ issues permits for the land application of biosolids in accordance with the Virginia Pollution Abatement (VPA) Permit Regulation, [9VAC25-32-303](#) through [760](#) and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation, [9VAC25-31-420](#) through [720](#). The authority for promulgation of the VPA Permit Regulation ([9VAC25-32](#)) and development of this guidance is contained in § [62.1-44.15](#) of the Code of Virginia.

The VPA Permit Regulation (9-VAC-25-32-60.A) includes requirements to apply for a permit authorizing the land application of biosolids, as well as the specific information to be included in the permit application (9-VAC-25-32-60.F). 9VAC25-32-60.C establishes the duty of the permittee to submit a permit application to reapply for a VPA permit at least 180 days prior to the expiration date of the permit.

III. Background

On January 1, 2008, regulatory oversight for land application of biosolids (treated sewage sludge) was transferred from VDH to DEQ. This transfer occurred at the direction of the 2007 General Assembly, which passed legislation¹ requiring that all land application of biosolids in the Commonwealth of Virginia be permitted under either a VPA permit or VPDES permit. DEQ issued the first new VPA permit authorizing the land application of biosolids on April 15, 2009. Since then, over 100 VPA biosolids permits have been issued. In calendar year 2019, 22 VPA biosolids permits will expire, plus one industrial residuals permit that the centralized biosolids program administers. In calendar year 2020, 31 VPA biosolids permits will expire. This is a significant workload for the VPA biosolids permitting staff, and this guidance document is intended to address several issues created by the quantity of permits.

Since the General Assembly transferred the biosolids regulatory program to DEQ, the program has evolved and experienced numerous changes. The major changes impacting the processing of permit applications includes centralization of the program, development of a structured protocol for permit processing, and a concerted effort to ensure that site information in the site books submitted with the permit application accurately represents the site. The effort to verify the site information has relied heavily on the use of a Geographic Information System (GIS).

During permit modifications to include the 2013 amendments to the VPA Permit Regulation, staff began reviewing the site books that permit holders had submitted with the initial issuance and previous modifications to determine compliance with the amended regulations. In some cases, permit writers identified technical deficiencies in the site books. In order not to delay permit modifications, fields with deficiencies were listed in a table identified as Attachment A-1, and a special condition was included in the permit that requires the permit holder to update the applicable site book for any fields listed in Attachment A-1 prior to future land application on that field. Permit writers document inclusion in an

¹ See Chapter 881 of the 2007 Acts of Assembly, <http://leg1.state.va.us/cgi-bin/legp504.exe?071+ful+CHAP0881..>

Attachment A-1 in the DEQ biosolids GIS database. This guidance outlines a similar system for reissuing permits for which the site books may lack certain details required by the 2013 regulations, and the land application sites are otherwise completely suitable for land application.

In order to simplify the review process for the permit writers processing the permit reissuance applications, DEQ will provide the existing information in the GIS database to the permittees in a reissuance application package with the due date reminder. DEQ has also designed a new permit application form in Microsoft Excel format, into which DEQ will download the data from the GIS database. This will allow the applicant to work with the exact record included in the existing permit that identifies each field and its acreage, and should help to alleviate errors on the application. If the information is correct, no edits will be required, but the applicant will have the ability to identify modifications to existing fields and add new land as well. Maintaining the format taken from GIS will allow for easier comparison of data and uploading of any edits.

IV. Guidance

A. Application Due Reminder

9VAC25-32-60.C. requires that the permittee submit a **complete** permit application 180 days prior to permit expiration. The VPA Manual prescribes sending reminder letters 180 days prior to the due date. Due to the complexity of the permit applications, DEQ proposes to send the reminders 1 year prior to the due date, anticipating potential receipt of early submittals to allow time for any requests and submittals of additional information and still have a complete permit application by the due date.

The permit application sent to the permittee shall include the following:

- 1) Form A
- 2) Form D - VPA Permit Application Workbook* which includes Excel worksheets for source list; storage facilities; and land application sites
- 3) Part D-II – Land Application of Biosolids. Requirements and Instructions.*
- 4) Part D-IV - Biosolids Characterization. Requirements and Instructions*
- 5) Part D-V – Non-Hazardous Declaration Form – An updated form is required to be included for all sources included in the application.
- 6) Part D-VI – Landowner Agreement Form*

* DEQ has developed new forms and will submit these to the Virginia Registrar for publication on the Legislative Information System (LIS) prior to distribution for use.

B. Managing Permit Applications Submitted For Reissuance

- 1) A complete permit application means a technically complete Permit Application.
- 2) Upon receipt of a permit application for reissuance, the permit writer will determine if it is administratively complete within 2 weeks. If the permit writer finds the permit application to be administratively incomplete, the permit writer will notify the applicant immediately of the deficiencies and the permit application will be set aside until receipt of all requested information.
- 3) After the application has been determined to be administratively complete, the permit writer will begin the technical review.
- 4) Managing a permit application that is not technically complete on the due date:
 - a. Permit application content for land application area that is complete on the due date will move forward in the permit processing.
 - b. The permit will not be administratively continued in order to include new sites, fields or land for which the permit application information was not correct or complete on the application due date. Therefore, if information regarding sites or fields is not correct or complete on the application due date, possible options include:
 - i. The permit applicant provides information to make the application complete and correct prior to adjacent resident notification, if applicable, and public notice (PN) of the draft permit (at least 40 days before permit expiration) and the sites will be included in the reissuance;
 - ii. The permit applicant does not provide information prior to adjacent resident notification/PN of the draft permit and the permit is reissued without those sites; or
 - iii. The permit applicant does not provide information prior to adjacent resident notification/PN of the draft permit and the permit is allowed to expire.
- 5) DEQ will not begin processing an application for modification to add land to a permit within 1 year (365 days) of the permit's expiration date unless the application package includes all the necessary information to reissue the permit. The permit applicant may choose the following options to process land additions within the final year of a permit's term:
 - a) Pay no modification fee, and DEQ processes the modification to add land with the reissuance so that the new sites are effective once the reissuance is complete; or
 - b) Pay a \$5000 revoke and reissue fee to include the new sites in a permit that would be reissued prior to the expiration date of the current permit.

C. Administratively Complete Permit Application

A permit application is administratively complete when all of the required forms are present, with all spaces filled in and questions answered, and all supporting documents are included. In order to deem a permit application administratively complete, the permit writer must find the following in the submitted application:

- 1) Form A - completed and signed
- 2) Form D VPA Permit Application Workbook with the following completed:
 - a) **Tab D II.2.a Source List.** All spaces shall be complete for each generator.
 - b) **Tab D II.7. Storage.** The permit writer shall be able to identify:
 - i) all routine storage facilities managed by the applicant; and
 - ii) all existing and proposed on-site storage sites located within the county/city covered by the permit.
 - c) **Tab D II.14.a Permitted Fields.** DEQ will have completed this tab based on the GIS record of the current active permit. The permit applicant need only enter data into columns M, N, O and P to identify corrections needed or desired changes to an existing field, if any.
 - d) **Tab D II.14.b New Fields.** The applicant will only populate this tab if the applicant is adding new land. If the applicant is adding land at reissuance, the applicant must complete all of the cells in each row associated with a field.
- 3) Form D - II – Land Application of Biosolids. Requirements and Instructions.
 - a) Generator Odor Control Plans: the permit writer shall have for review:
 - i) An Odor Control Plan for each source identified on Tab D-IV; and
 - ii) Other updated Odor Control Plans, as needed.
 - b) A copy of any leasing agreements for storage facilities included in the permit that are not owned by the permit applicant.
 - c) A new Form D - Part V – Non-Hazardous Declaration for all sources listed on Tab 2.a. and Tab D-IV in the workbook.
 - d) Landowner Agreements (LOAs). LOAs associated with land included in the permit reissuance must have signature dates that are less than 10 years old on the expected effective date of permit reissuance. The following conditions apply:
 - i) Any LOAs revision 9/14/2012 must have a signature prior to November 14, 2018.
 - ii) Any LOA signed after November 14, 2018 must be on LOA revision 6/11/2018(b).
 - iii) If a landowner agreement for a previously permitted site is on a form prior to 9/14/2012, or will be greater than 10 years old on the expected effective date of the reissuance, the permit writer will insert a special condition in the reissued permit requiring submittal of a new and current form prior to land application., and will include the site in an Attachment A.1. list in the permit.
 - iv) Sites for which landowner agreements are no longer valid due to change in ownership will not be included in the reissuance unless a new landowner agreement is submitted prior to public notice of the permit reissuance.

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- e) Plans and specifications for any proposed storage facilities. Such information is not required for existing facilities.
 - f) Letter of certification from local government for a new routine storage facility.
- 4) Form D-IV. Biosolids Characterization. This form will only be required if the applicant intends to add sources of biosolids not currently on the approved source list. This will include biosolids from:
- a) a new generating facility;
 - b) an existing generator that is not on the approved source list;
 - c) a generator on the approved source list that did not submit biosolids monitoring data in the last year; or
 - d) a generator on the approved source list, who is using a treatment process to generate biosolids different than the process identified on the approved source list.

Note that the form only requires PCB analyses if not previously submitted to DEQ. If additional analyses have been conducted, these results should be submitted with the reissuance application.

When an applicant has completed the Biosolids Characterization tab, the permit writer will forward the application and all accompanying data to OLAP for source approval.

D. Technically Complete Permit Application

- 1) Part II form – DEQ will consider an application form technically complete if all of the information provided is correct.
- 2) Supporting documentation listed above in Part C. is appropriate and correct for the specific permit locality and sites.
- 3) Site Books
 - a) If site books for currently permitted sites contain all of the information required by [9VAC25-32-60.F.2.d](#) of the VPA Permit Regulation, the permit applicant need not resubmit the site books to DEQ, but rather provide a reference in the application to site books previously submitted.

Note that [9VAC25-32-60.F.](#) states:

The information [in the reissuance application] may be provided by referencing information previously submitted to the department. The board may waive any requirement of this subsection if it has access to substantially identical information.

- b) The permit writer will use the site book checklist to determine the completeness of information submitted regarding the land application sites. (An updated version to address reissuance will be attached to this guidance.)
- c) If a site book for a site authorized in the current permit does not contain all of the information required by [9VAC25-32-60.F.2.d](#) of the VPA Permit Regulation, the permit writer may consider the permit application technically complete, but will insert a special condition in the reissued permit that requires submittal of a site book containing all of the specified requirements in the Regulation prior to land application, noted by including the site in an Attachment A.1. list in the permit.

Note that [9VAC25-32-60.F.](#) also states:

The board may also waive any requirement of this subsection that is not of material concern for a specific permit.

In this way, DEQ will waive the requirement to update the site book for a currently permitted site, given that the permit condition will suspend land application on that site until such time as the site book meets the regulatory requirements. The new technical information is not of material concern for the permit until such time as land application commences. What is of material concern at the time of reissuance is the location of the site, which the permit applicant has provided for the current permit.

E. Processing Steps for Permit Reissuances

- 1) Public Meetings: DEQ will hold public meetings for reissuance applications that include proposed additions of land >50% of that authorized in the initial issuance of the permit at the beginning of the first permit term.

[9VAC25-32-140](#).B.2. states that:

Whenever the department receives an application for a new permit for land application of biosolids or land disposal of treated sewage, stabilized sewage sludge, or stabilized septage, or an application to reissue with the addition of sites increasing acreage by 50% or more of that authorized in the initial permit, the department shall establish a date for a public meeting to discuss technical issues relating to proposals for land application of biosolids or land disposal of treated sewage, stabilized sewage sludge or stabilized septage.

In the context of this subsection, the term “application for a new permit” is not equivalent to the term “application to reissue,” thus a public meeting is not necessary for all reissuances. The term “initial permit” is not defined in the statute or regulation, but is also used in Section [9VAC25-32-140](#).C.2. to refer to the acres included in the permit at the initial issuance before any modifications to add land. Once the permit reissuance is effective, DEQ will consider the acreage “authorized in the initial permit” to be that included in the initial issuance of the reissued permit for purposes of calculating 50% of the acreage for future modifications to add land.

- 2) DEQ will only conduct adjacent resident notifications for additions of new, non-contiguous fields proposed for land application. DEQ will not notify residents adjacent to fields included in the current permit.

[9VAC25-32-140](#).C.1. states that:

Following the submission of an application to add a site that is not contiguous to sites included in an existing permit authorizing the land application of biosolids:
1. The department shall notify persons residing on property bordering such site and shall receive written comments from those persons for a period of 30 days. Based upon written comments, the department shall determine whether additional site-specific requirements should be included in the authorization for land application at the site.

- 3) All draft permits for reissuance require:
 - i. DEQ notification to the affected locality;
 - ii. Newspaper public notice once per week for two consecutive weeks, paid for by the applicant;
 - iii. 30 day public comment period on the draft permit; and
 - iv. Opportunity to request a hearing. DEQ will make determinations regarding public hearings in accordance with [§ 62.1-44.15:02](#) of the Code of Virginia.

F. Options to Distribute Expiration Dates for Multiple Permits

Where a permit holder has multiple permits that expire in a short time frame, it may be advantageous for the permit holder as well as DEQ to adjust the expiration dates of reissued permits so that future reissuance workload is distributed over a longer period. The following options are available to accomplish such a distribution without a lapse in permit coverage:

- 1) The permit applicant submits a technically complete reissuance application by the submittal deadline (180 days prior to current permit expiration). DEQ administratively continues the current permit while processing the reissuance application, and the new permit expiration date is shifted forward 10 years plus the term of the administrative continuance;
- 2) DEQ issues the new permit with a term less than 10 years. In this scenario:
 - a) DEQ would negotiate the new term with the permit applicant;
 - b) Subsequent terms for permits following the short term reissuance would be a full 10 years;
 - c) Land could be added at the reissuance of the short term permit without a \$1000 modification fee;
 - d) Would require newspaper public notice of the draft permit, paid for by the applicant;
 - e) Would require opportunity to request a public hearing;
 - f) Initial permit acreage would reset; or
- 3) The permit applicant pays a \$5000 revoke and reissue fee, and DEQ issues the new permit with an effective date prior to the expiration date of the current permit, simultaneously revoking the current permit. In this scenario:
 - a) The term of the permit following the reissuance would be a full 10 years;
 - b) Land could be added at the reissuance of the permit without an additional modification fee;
 - c) Would require newspaper public notice of the draft permit, paid for by the applicant;
 - d) Would require opportunity to request a public hearing;
 - e) Initial permit acreage would reset.