

1 Project 4408 - none

2 STATE WATER CONTROL BOARD

3 Amendments Related to Industrial Wastes to Address 2015 Legislation

4

5 CHAPTER 20

6 FEES FOR PERMITS AND CERTIFICATES

7 Part I

8 General

9 **9VAC25-20-10. Definitions.**

10 Unless otherwise defined in this chapter or unless the context clearly indicates otherwise,  
11 the terms used in this regulation shall have the meanings ascribed to them by the State Water  
12 Control Law, § 62.1-44.3; the board's Virginia Pollutant Discharge Elimination System Permit  
13 Regulation, 9VAC25-31-10; the board's Virginia Pollution Abatement Permit Regulation,  
14 9VAC25-32-10; the board's Virginia Water Protection Permit Program Regulation, 9VAC25-210-  
15 10; the board's Surface Water Management Area Regulation, 9VAC25-220-10; and the board's  
16 Ground Water Withdrawal Regulations, 9VAC25-610-10, including any general permits issued  
17 thereunder.

18 "Applicant" means for the purposes of this chapter any person filing an application for  
19 issuance, reissuance, or modification, except as exempted by 9VAC25-20-50, of a permit,  
20 certificate or special exception or filing a registration statement or application for coverage under  
21 a general permit issued in response to Chapters 3.1 (§ 62.1-44.2 et seq.), 24 (§ 62.1-242 et  
22 seq.), and 25 (§ 62.1-254 et seq.) of Title 62.1 of the Code of Virginia.

23 "Application" means for the purposes of this chapter the forms approved by the State Water  
24 Control Board for applying for issuance or reissuance of a permit, certificate or special exception

1 or for filing a registration statement or application for coverage under a general permit issued in  
2 response to Chapters 3.1, 24, and 25 of Title 62.1 of the Code of Virginia. In the case of  
3 modifications to an existing permit, permit authorization, certificate or special exception  
4 requested by the permit, permit authorization, certificate or special exception holder and not  
5 exempted by 9VAC25-20-50, the application shall consist of the formal written request and any  
6 accompanying documentation submitted by the permit, permit authorization, certificate or  
7 special exception holder to initiate the modification.

8 "Biosolids" means a sewage sludge that has received an established treatment for required  
9 pathogen control and is treated or managed to reduce vector attraction to a satisfactory level  
10 and contains acceptable levels of pollutants, such that it is acceptable for use for land  
11 application, marketing or distribution in accordance with 9VAC25-31 or 9VAC25-32.

12 "Dry tons" means dry weight established as representative of land applied biosolids or  
13 industrial residuals, and expressed in units of English tons.

14 "Existing permit" means for the purposes of this chapter a permit, permit authorization,  
15 certificate or special exception issued by the board and currently held by an applicant.

16 "Established fees" means a fee established by the department per dry ton of biosolids or  
17 industrial residuals managed by land appliers.

18 "Industrial residual" means solid or semi-solid industrial waste including solids, residues, and  
19 precipitates separated or created by the unit processes of a device or system used to treat  
20 industrial wastes.

21 "Land application" means, in regard to sewage, biosolids and industrial residuals, the  
22 distribution of ~~either~~ treated wastewater of acceptable quality, referred to as effluent, or  
23 stabilized sewage sludge of acceptable quality, referred to as biosolids, or industrial residuals,  
24 upon, or insertion into, by spreading or spraying on the surface of the land, injecting below the  
25 surface of the land, or incorporating into the soil with a uniform application rate for the purpose

1 of ~~utilization, or assimilation~~ fertilizing crops or vegetation or conditioning the soil. Bulk disposal  
2 of stabilized sludge or industrial residuals in a confined area, such as in landfills, is not land  
3 application. Sites approved for land application of biosolids in accordance with 9VAC25-31 or  
4 9VAC25-32 are not to be considered to be treatment works.

5 "Land applier" means someone who land applies biosolids or industrial residuals pursuant to  
6 a valid permit from the department as set forth in 9VAC25-31 or 9VAC25-32.

7 "Local monitor" means a person or persons employed by local government to perform the  
8 duties of monitoring the operations of land appliers pursuant to a local ordinance.

9 "Major modification" means for the purposes of this chapter modification or amendment of  
10 an existing permit, permit authorization, certificate or special exception before its expiration  
11 which is not a minor modification as defined in this regulation.

12 "Major reservoir" means for the purposes of this chapter any new or expanded reservoir with  
13 greater than or equal to 17 acres of total surface water impacts (stream and wetlands), or a  
14 water withdrawal of greater than or equal to 3,000,000 gallons in any one day.

15 "Minor modification" means for the purposes of this chapter minor modification or  
16 amendment of an existing permit, permit authorization, certificate or special exception before its  
17 expiration as specified in 9VAC25-31-400, 9VAC25-32-240, 9VAC25-210-210, 9VAC25-220-  
18 230, or in 9VAC25-610-330. Minor modification for the purposes of this chapter also means  
19 other modifications and amendments not requiring extensive review and evaluation including,  
20 but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency  
21 requirements, changes in sampling locations, and changes to compliance dates within the  
22 overall compliance schedules. A minor permit modification or amendment does not substantially  
23 alter permit conditions, substantially increase or decrease the amount of surface water impacts,  
24 increase the size of the operation, or reduce the capacity of the facility to protect human health  
25 or the environment.

1 "Minor reservoir" means for the purposes of this chapter any new or expanded reservoir with  
2 less than 17 acres of total surface water impacts (stream and wetlands), or a water withdrawal  
3 of less than 3,000,000 gallons in any one day.

4 "New permit" means for the purposes of this chapter a permit, permit authorization,  
5 certificate or special exception issued by the board to an applicant that does not currently hold  
6 and has never held a permit, permit authorization, certificate or special exception of that type,  
7 for that activity, at that location.

8 "Reimbursement application" means forms approved by the department to be used to apply  
9 for reimbursement of local monitoring costs for land application of biosolids or industrial  
10 residuals in accordance with the provisions of this regulation. The application shall consist of a  
11 formal written request and any accompanying documentation submitted by a local government  
12 in accordance with a local ordinance.

13 "Revoked permit" means for the purposes of this chapter an existing permit, permit  
14 authorization, certificate or special exception which is terminated by the board before its  
15 expiration.

16 "Single jurisdiction" means for the purposes of this chapter a single county or city. The term  
17 county includes incorporated towns which are part of the county.

18 Statutory Authority

19 § 62.1-44.15 of the Code of Virginia.

20 Historical Notes

21 Derived from VR680-01-01 § 1.1, eff. July 1, 1993; amended, Virginia Register Volume 19,  
22 Issue 18, eff. July 1, 2003; Volume 20, Issue 23, eff. July 1, 2004; Volume 24, Issue 6, eff.  
23 January 1, 2008.

**1 9VAC25-20-20. Purpose.**

2 Section 62.1-44.15:6 of the Code of Virginia requires the promulgation of regulations  
3 establishing a fee assessment and collection system to recover a portion of the State Water  
4 Control Board's, Department of Game and Inland Fisheries', and the Department of  
5 Conservation and Recreation's direct and indirect costs associated with the processing of an  
6 application to issue, reissue, or modify any permit, permit authorization or certificate which the  
7 board has the authority to issue from the applicant for such permit, permit authorization or  
8 certificate. Section 62.1-44.19:3 of the Code of Virginia requires the promulgation of regulations  
9 establishing a fee to be charged to all permit holders and persons applying for permits and  
10 permit modifications associated with land application of biosolids. Section 62.1-44.19:3 of the  
11 Code of Virginia also requires the promulgation of regulations requiring the payment of a fee by  
12 persons land applying biosolids. Section 62.1-44.16 of the Code of Virginia requires the  
13 promulgation of regulations requiring the payment of a fee by persons land applying solid or  
14 semisolid industrial wastes. These regulations establish the required fee assessment and  
15 collection system.

**16 Statutory Authority**

**17** §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

**18 Historical Notes**

**19** Derived from VR680-01-01 § 1.2, eff. July 1, 1993; amended, Virginia Register Volume 20,  
**20** Issue 23, eff. July 1, 2004; Volume 24, Issue 6, eff. January 1, 2008; Volume 29, Issue 24, eff.  
**21** September 1, 2013.

**22 9VAC25-20-40. Applicability.**

**23** A. This chapter applies to:

- 24** 1. All applicants for issuance of a new permit, permit authorization or certificate, or  
**25** reissuance of an existing permit, permit authorization or certificate, except as specifically

1 exempt under 9VAC25-20-50 A. The fee due shall be as specified under 9VAC25-20-  
2 110 or 9VAC25-20-130.

3 2. All permit, permit authorization or certificate holders who request that an existing  
4 permit, permit authorization or certificate be modified, except as specifically exempt  
5 under 9VAC25-20-50 A 3 or 9VAC25-20-50 A 6. The fee due shall be as specified under  
6 9VAC25-20-120.

7 3. All land appliers land applying biosolids or industrial residuals on permitted sites in the  
8 Commonwealth of Virginia, ~~except as specifically exempt under 9VAC25-20-50 C~~. The  
9 fee due shall be as specified under 9VAC25-20-146.

10 B. An applicant for a permit, permit authorization or certificate involving a permit that is to be  
11 revoked and reissued shall be considered an applicant for a new permit. The fee due shall be as  
12 specified under 9VAC25-20-110.

13 C. Permit maintenance fees apply to each Virginia Pollutant Discharge Elimination System  
14 (VPDES) permit holder and each Virginia Pollution Abatement (VPA) permit holder, except  
15 those specifically exempt under 9VAC25-20-50 B of this chapter. The fee due shall be as  
16 specified under 9VAC25-20-142.

17 D. Virginia Water Protection (VWP) Individual/Minimum Instream Flow permit fees apply to  
18 any permit for the construction of an intake on a stream or river, or to any permit for the  
19 construction of a new intake on an existing reservoir. The fee due shall be as specified under  
20 9VAC25-20-110 or 9VAC25-20-120, as applicable.

21 E. VWP Individual/Reservoir permit fees apply to any permit for the construction of a new  
22 reservoir, or the expansion of an existing reservoir in which one of the purposes of the reservoir  
23 is for water supply. The fee due shall be as specified under 9VAC25-20-110 or 9VAC25-20-120,  
24 as applicable. VWP Individual/Reservoir permit fees do not apply to the construction of any  
25 impoundment, pond or lake in which water supply is not part of the project's purpose.

1 Statutory Authority

2 § 62.1-44.15 of the Code of Virginia.

3 Historical Notes

4 Derived from VR680-01-01 § 1.4, eff. July 1, 1993; amended, Virginia Register Volume 20,  
5 Issue 23, eff. July 1, 2004; Volume 24, Issue 6, eff. January 1, 2008.

6 Part II

7 Payment, Deposits and Use of Fees

8 **9VAC25-20-60. Due dates.**

9 A. Virginia Pollutant Discharge Elimination System (VPDES) and Virginia Pollution  
10 Abatement (VPA) permits.

11 1. Application fees for all new permit applications are due on the day an application is  
12 submitted and shall be paid in accordance with 9VAC25-20-70 A. Applications will not be  
13 processed without payment of the required fee.

14 2. For reissuance of permits that expire on or before December 27, 2004, the application  
15 fee for new permit applications as set forth in this regulation is due on the day the  
16 application is submitted.

17 3. An application fee is due on the day an application is submitted for either a major  
18 modification or a permit reissuance that occurs (and becomes effective) before the  
19 stated permit expiration date. There is no application fee for a regularly scheduled  
20 renewal of an individual permit for an existing facility, unless the permit for the facility  
21 expires on or before December 27, 2004. There is no application fee for a major  
22 modification or amendment that is made at the board's initiative.

23 4. Permit maintenance fees shall be paid to the board by October 1 of each year.  
24 Additional permit maintenance fees for facilities that are authorized to land apply,

1 distribute, or market biosolids; are in a toxics management program; or have more than  
2 five process wastewater discharge outfalls at a single facility (not including "internal"  
3 outfalls) shall also be paid to the board by October 1 of each year. No permit will be  
4 reissued or administratively continued without payment of the required fee.

5 a. Existing individual permit holders with an effective permit as of July 1, 2004  
6 (including permits that have been administratively continued) shall pay the permit  
7 maintenance fee or fees to the board by October 1, 2004, unless one of the following  
8 conditions apply:

9 (1) The permit is terminated prior to October 1, 2004; or

10 (2) The permit holder applied or reapplied for a municipal minor VPDES permit with a  
11 design flow of 10,000 gallons per day or less between July 1, 2003, and July 1, 2004,  
12 and paid the applicable permit application fee.

13 b. Effective April 1, 2005, any permit holder whose permit is effective as of April 1 of  
14 a given year (including permits that have been administratively continued) shall pay  
15 the permit maintenance fee or fees to the board by October 1 of that same year.

16 B. Surface Water Withdrawal (SWW) and Groundwater Withdrawal (GWW) permits.

17 1. All permit application fees are due on the day an application is submitted and shall be  
18 paid in accordance with 9VAC25-20-70 A. Applications will not be processed without  
19 payment of the required fee. No permit will be administratively continued without  
20 payment of the required fee.

21 2. For reissuance of GWW permits that expire on or before March 27, 2005, the  
22 application fee for new permit applications as set forth in this regulation is due on the  
23 day the application is submitted.

24 3. Application fees for major modifications or amendments are due on the day an  
25 application is submitted. Applications will not be processed without payment of the

1 required fee. There is no fee for a major modification or amendment that is made at the  
2 board's initiative.

3 C. Virginia Water Protection (VWP) permits.

4 1. VWP permit application fees shall be paid in accordance with 9VAC25-20-70 A.  
5 Review of applications may be initiated before the fee is received; however, draft permits  
6 or authorizations shall not be issued prior to payment of the required fee. No permit or  
7 permit authorization shall be administratively continued without payment of the required  
8 fee.

9 2. VWP application fees for major modifications shall be paid in accordance with  
10 9VAC25-20-70 A. Review of applications may be initiated before the fee is received;  
11 however, major modifications shall not be issued prior to payment of the required fee.  
12 There is no application fee for a major modification that is made at the board's initiative.

13 D. ~~Biosolids land~~ Land application fees for biosolids and industrial residuals. The  
14 department may bill the land applier for amounts due following the submission of the monthly  
15 land application report. Payments are due 30 days after receipt of a bill from the department. No  
16 permit or modification of an existing permit will be approved in the jurisdiction where payment of  
17 the established fee by the land applier has not been received by the due date; until such time  
18 that the fees are paid in full. Existing permits may be revoked or approved sources may be  
19 reclassified as unapproved unless the required fee is paid by the due date. No permit will be  
20 reissued or administratively continued or modified without full payment of any past due fee.

21 Statutory Authority

22 §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

23 Historical Notes

1 Derived from VR680-01-01 § 2.1, eff. July 1, 1993; amended, Virginia Register Volume 20,  
2 Issue 23, eff. July 1, 2004; Volume 24, Issue 6, eff. January 1, 2008; Volume 29, Issue 24, eff.  
3 September 1, 2013.

4 **9VAC25-20-90. Deposit and use of fees.**

5 A. Sludge Management Fund. All ~~biosolids~~ land application fees collected from permit  
6 holders who land apply biosolids or industrial residuals in the Commonwealth of Virginia, and  
7 fees collected from permit holders and persons applying for permits and permit modifications  
8 pursuant to § 62.1-44.19:3 of the Code of Virginia shall be deposited into the Sludge  
9 Management Fund established by, and used and accounted for as specified in ~~§-§§ 62.1-44.16~~  
10 and 62.1-44.19:3 of the Code of Virginia. Payments to the Department of Conservation and  
11 Recreation for their costs related to implementation of the biosolids land application program  
12 and to localities with duly adopted ordinances providing for the testing and monitoring of the  
13 land application of biosolids or industrial residuals will be made from this fund. Fees collected  
14 shall be exempt from statewide indirect costs charged and collected by the Department of  
15 Accounts and shall not supplant or reduce the general fund appropriation to the department.

16 B. State Water Control Board Permit Program Fund. All fees collected in response to this  
17 chapter and not deposited into the Sludge Management Fund shall be deposited into the State  
18 Water Control Board Permit Program Fund established by, and used and accounted for as  
19 specified in § 62.1-44.15:7 of the Code of Virginia. Payment to the Departments of Conservation  
20 and Recreation and Game and Inland Fisheries for permit applications they are required under  
21 state law to review will be made from this fund. Fees collected shall be exempt from statewide  
22 indirect costs charged and collected by the Department of Accounts.

23 Statutory Authority

24 §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

25 Historical Notes

1 Derived from VR680-01-01 § 2.4, eff. July 1, 1993; amended, Virginia Register Volume 24,  
2 Issue 6, eff. January 1, 2008; Volume 29, Issue 24, eff. September 1, 2013.

3 Part III

4 Determination of Fee Amount

5 **9VAC25-20-100. General.**

6 Each application for a new permit, permit authorization or certificate, each application for  
7 reissuance of a permit, permit authorization or certificate, each application for major modification  
8 of a permit, permit authorization or certificate, each revocation and reissuance of a permit,  
9 permit authorization or certificate, and each application of a dry ton of biosolids or industrial  
10 residuals is a separate action and shall be assessed a separate fee, as applicable. The fees for  
11 each type of permit, permit authorization or certificate that the board has the authority to issue,  
12 reissue or modify will be as specified in this part.

13 Statutory Authority

14 §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

15 Historical Notes

16 Derived from VR680-01-01 § 3.1, eff. July 1, 1993; amended, Virginia Register Volume 20,  
17 Issue 23, eff. July 1, 2004; Volume 24, Issue 6, eff. January 1, 2008; Volume 29, Issue 24, eff.  
18 September 1, 2013.

19 Part IV

20 Biosolids and Industrial Residuals Fees and Reimbursable Costs

21 **9VAC25-20-146. Established fees.**

22 A. Land appliers shall remit the established fees to the department as specified in this  
23 regulation. The land appliers shall collect the required fees from the owners of the sewage  
24 treatment works and facilities that generate the Class B biosolids and exceptional quality

1 biosolids cake that are land applied. The land appliers shall collect the required fees from the  
2 owners of the industrial waste treatment facilities and other facilities that generate the industrial  
3 residuals that are land applied in localities that have adopted ordinances in accordance with §  
4 62.1-44.16.D. of the Code of Virginia. Such works and facilities shall be approved sources of  
5 biosolids or industrial residuals in accordance with ~~this regulation~~ 9VAC25-31 or 9VAC25-32.  
6 Land application shall only include biosolids or industrial residuals from approved sources as  
7 listed in the land application permit. The established fee shall be imposed on each dry ton of  
8 Class B biosolids and exceptional quality biosolids cake that is land applied in the  
9 Commonwealth of Virginia in accordance with 9VAC25-31 or 9VAC25-32. The established fee  
10 shall be imposed on each dry ton of industrial residuals that is land applied in localities that have  
11 adopted ordinances in accordance with § 62.1-44.16.D. of the Code of Virginia.

12

13 B. The amount of the established fee and disbursement are as follows:

14 1. The fee shall be \$7.50 per dry ton of Class B biosolids land applied in the  
15 Commonwealth of Virginia.

16 2. The fee shall be \$3.75 per dry ton of exceptional quality biosolids land applied as a  
17 cake in the Commonwealth of Virginia.

18 3. The fee shall be \$5.00 per dry ton of industrial residuals land applied in localities that  
19 have adopted ordinances in accordance with § 62.1-44.16.D. of the Code of Virginia.

20 ~~2-3.~~ 4. Disbursement of the established fees collected by the department for the land  
21 application of biosolids or industrial residuals shall be made to reimburse or partially  
22 reimburse those counties, cities and towns with duly adopted local ordinances that  
23 submit documentation of reimbursable expenses acceptable to the department as  
24 provided for in this regulation.

1 ~~3-4-5.~~ Disbursement of the established fees collected by the department for the land  
2 application of biosolids shall be made to reimburse the Department of Conservation and  
3 Recreation's costs for implementation of the biosolids application program.

#### 4 Historical Notes

5 Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia  
6 Register Volume 29, Issue 24, eff. September 1, 2013.

#### 7 **9VAC25-20-147. Records and reports.**

8 A. Records. Permittees shall maintain complete records of the land application activities and  
9 amounts of Class B biosolids, ~~and exceptional quality biosolids cake and industrial residuals~~  
10 that they land apply in the Commonwealth of Virginia. Such records shall be maintained by the  
11 permittee for five years after the date of the activity in a form that is available for inspection by  
12 the department. Records of land application activities shall include at minimum:

13 1. Name of permittee, DEQ permit number, and dates of activity.

14 2. Identification of land application site, including the DEQ control number.

15 3. The source of ~~biosolids, whether the biosolids are Class B biosolids, or exceptional~~  
16 quality biosolids cake, or industrial residuals and the field area receiving those biosolids  
17 or industrial residuals.

18 4. The amount of Class B biosolids, exceptional quality biosolids cake, or industrial  
19 residuals applied in dry tons, by class, and the method and calculations used to  
20 determine the reported value.

21 5. Name of responsible representative of permittee and a statement signed and dated by  
22 that representative indicating that the information submitted has been verified by that  
23 representative as correctly reported in accordance with this regulation.

1 B. Reports and notification. The permittee shall submit a monthly report by the 15th day of  
2 each month for land application activity that occurred in the previous calendar month, unless  
3 another date is specified in the permit in accordance with 9VAC25-32-80 I 4. The report shall  
4 include (i) the recorded information listed in subsection A of this section and (ii) a calculation of  
5 the total fee. The submitted report shall include a summary list of the total amount of Class B  
6 biosolids, ~~and exceptional quality biosolids cake and industrial residuals land-~~applied and the  
7 calculated fee based on the land-applied Class B biosolids, ~~and exceptional quality biosolids~~  
8 ~~cake and industrial residuals~~ for each county in which land application occurred. If no land  
9 application occurs under a permit during the calendar month, a report shall be submitted stating  
10 that no land application occurred.

11 Statutory Authority §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

12 Historical Notes

13 Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia  
14 Register Volume 29, Issue 24, eff. September 1, 2013.

15 **9VAC25-20-148. Reimbursable local monitoring costs.**

16 A. Reasonable expenses for the following types of activities may be submitted for  
17 reimbursement:

18 1. Charges for reviewing the permit to identify potential health and environmental  
19 protection issues upon notification by the permittee that operations will be initiated on  
20 permitted sites.

21 2. Charges and expenses, including local travel for site monitoring, inspections,  
22 collection and delivery of biosolids, industrial residuals or soil samples to a nearby  
23 laboratory and examination of records.

24 3. Charges for recordkeeping.

25 4. Charges for complaint and incident response.

1           5. Charges for biosolids, industrial residuals and soil sample testing costs.

2           6. Charges for the training of local monitors.

3           B. Charges for site monitoring not associated with determining compliance with state or  
4 federal law or regulation are ineligible for reimbursement.

5 Statutory Authority

6 §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

7 Historical Notes

8 Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia  
9 Register Volume 29, Issue 24, eff. September 1, 2013.

10 **9VAC25-20-149. Reimbursement of local monitoring costs.**

11           A. Reimbursement of local monitoring costs deemed reasonable by the department will be  
12 made for costs up to \$2.50 per dry ton of biosolids or industrial residuals land applied in a  
13 county during the period of time specified in the submitted invoice. Costs of up to \$4.00 per dry  
14 ton of biosolids or industrial residuals land applied in a county during the period of time that the  
15 costs were incurred may be reimbursed with prior approval from the department.

16           B. Application. A local government must submit a reimbursement application to request  
17 reimbursement from the department. All information shall be clearly typed or printed and all  
18 required or supporting documents must be attached. The county administrator or designated  
19 local ~~biosolids~~-monitor shall sign and date the application where indicated. The original signed  
20 application with one copy of each of the supporting documents shall be submitted to the  
21 department. Applications may not be submitted by facsimile or through electronic means. A  
22 reimbursement invoice form as described in this regulation must be completed before a  
23 reimbursement application can be submitted. The invoice form must include all expenses for  
24 which reimbursement is requested during the designated time period.

1 C. Application forms and submittal. The application for reimbursement must be submitted  
2 within 30 days of the last day of the month in which the reimbursable activity occurred. All  
3 applications received after this time frame will be ineligible for reimbursement. The following is a  
4 description of the application forms and an explanation of their use. The application forms and  
5 detailed instructions can be obtained from the department.

6 1. Form 1 - Reimbursement Application. An invoice form shall be submitted with each  
7 application for reimbursement. The invoice form shall list all reimbursable charges. To be  
8 reimbursed for eligible expenses, an applicant must provide documentation to  
9 demonstrate that the expenses were incurred. Invoices are acceptable proof of incurred  
10 expenses. Invoices signed by the local ~~biosolids~~ monitor or agent who performed or  
11 managed the monitoring activities shall be legible. All invoices are to include the  
12 following:

- 13 a. DEQ permit number and site identification;
- 14 b. DEQ control number for application fields;
- 15 c. ~~Biosolids contractor's~~ Land applier's name;
- 16 d. Date and type of activity monitored;
- 17 e. Name of ~~biosolids~~ local monitor;
- 18 f. Number of hours to be reimbursed and charge per hour;
- 19 g. List of expenses for which reimbursement is sought; and
- 20 h. Type of sampling activity performed and associated laboratory expense vouchers.

21 2. The application requires the county administrator to certify that the responsible official  
22 has read and understands the requirements for reimbursement and that the application  
23 submitted is not fraudulent. The local monitor must attest to the accuracy and  
24 completeness of the information provided.

1 3. Form 2 - Multiple Owners Payment Assignment Form. When there are multiple local  
2 governments as claimants, a separate, signed and notarized invoice form for each  
3 claimant must be filled out and submitted with the application.

4 D. Processing applications.

5 1. If contacted by the department regarding an incomplete reimbursement application,  
6 an applicant will have 14 days from the date of the call or letter to submit the information  
7 requested and correct any deficiencies. Extensions of the 14-day deadline will not be  
8 granted. An application that does not contain all of the required information after the 14-  
9 day time frame may be rejected.

10 2. Only invoices pertaining to the monitoring activity claimed in the current application  
11 will be accepted. Costs omitted from previous claims are ineligible for reimbursement in  
12 subsequent claims. Invoices submitted in previous claims are not eligible documentation  
13 for reimbursement of costs in subsequent claims. To reduce the risk of disqualification of  
14 costs, costs for different monitoring activities should be invoiced separately. If possible,  
15 invoices should be structured so that costs are grouped according to task or activity.

16 E. Reconsideration process.

17 1. Claimants may submit a written response indicating why they believe costs denied on  
18 the reimbursement decision should be paid.

19 2. If the claimant disagrees with the decision in the reimbursement payment package, a  
20 notice of intent (NOI) to object and a reconsideration claim form must be submitted to  
21 the department within the filing deadlines specified in the reconsideration procedure  
22 package:

23 a. If filing deadlines are not met, the decision in the reimbursement payment package  
24 is final. This written objection shall be in the format specified in the reconsideration  
25 procedure package and explain the reasons for disagreement with the decisions in

1 the reimbursement payment letter and supply any additional supporting  
2 documentation.

3 b. Upon receipt of this information and at the claimant's request, the department may  
4 schedule a reconsideration meeting to reevaluate the denied costs.

5 3. Claimants will be given an opportunity to contest the reimbursement decisions in  
6 accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of  
7 Virginia). Within the filing deadline, the claimant must submit a written summary of the  
8 issues that will be contested using the reconsideration claim form.

9 4. The reconsideration procedures provide the department the opportunity to correct  
10 certain errors as follows:

11 a. Failure of the reviewer to verify an invoice form that was received prior to  
12 completing the verification package for the reimbursement.

13 b. Errors the reviewer makes in verifying an invoice form.

14 c. Failure of the claimant to submit all invoices.

15 5. Errors ineligible for reconsideration. Notwithstanding the above, some types of errors  
16 cannot be corrected using the reconsideration process. It is the responsibility of the  
17 claimant or consultant, or both, to ensure that all application forms (invoice forms, and  
18 sampling and testing verification) are complete and accurate. The following types of  
19 errors may result in a denial of costs:

20 a. Items omitted from the invoice;

21 b. Unverified sampling and testing results;

22 c. Additions or revisions to the invoice forms submitted after the reviewer forwards  
23 the verification package to the department;

- 1 d. Using one invoice in multiple claims. Invoices submitted in an application cannot
- 2 be used as documentation for reimbursement of costs in subsequent claims;
- 3 e. Failure to claim performed work on the invoice form;
- 4 f. Failure to claim sampling and testing costs as authorized; or
- 5 g. Failure to obtain prior approval from the department for costs that exceed \$2.50
- 6 per dry ton of biosolids or industrial residuals land applied.

7 Statutory Authority

8 §§ 62.1-14 and 62.1-44.15:6 of the Code of Virginia.

9 Historical Notes

10 Derived from Virginia Register Volume 24 Issue 6, eff. January 1, 2008; amended, Virginia  
11 Register Volume 29, Issue 24, eff. September 1, 2013.

12 Part I

13 Definitions and General Program Requirements

14 **9VAC25-31-10. Definitions.**

15 "Act" means Federal Water Pollution Control Act, also known as the Clean Water Act  
16 (CWA), as amended, 33 USC § 1251 et seq.

17 "Administrator" means the Administrator of the United States Environmental Protection  
18 Agency, or an authorized representative.

19 "Animal feeding operation" or "AFO" means a lot or facility (other than an aquatic animal  
20 production facility) where the following conditions are met: (i) animals (other than aquatic  
21 animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45  
22 days or more in any 12-month period, and (ii) crops, vegetation forage growth, or post-harvest  
23 residues are not sustained in the normal growing season over any portion of the lot or facility.

1 "Applicable standards and limitations" means all state, interstate, and federal standards and  
2 limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity  
3 is subject under the CWA (33 USC § 1251 et seq.) and the law, including effluent limitations,  
4 water quality standards, standards of performance, toxic effluent standards or prohibitions, best  
5 management practices, pretreatment standards, and standards for sewage sludge use or  
6 disposal under §§ 301, 302, 303, 304, 306, 307, 308, 403 and 405 of CWA.

7 "Approval authority" means the Director of the Department of Environmental Quality.

8 "Approved POTW Pretreatment Program" or "Program" or "POTW Pretreatment Program"  
9 means a program administered by a POTW that meets the criteria established in Part VII  
10 (9VAC25-31-730 et seq.) of this chapter and which has been approved by the director or by the  
11 administrator in accordance with 9VAC25-31-830.

12 "Approved program" or "approved state" means a state or interstate program which has  
13 been approved or authorized by EPA under 40 CFR Part 123.

14 "Aquaculture project" means a defined managed water area which uses discharges of  
15 pollutants into that designated area for the maintenance or production of harvestable  
16 freshwater, estuarine, or marine plants or animals.

17 "Average monthly discharge limitation" means the highest allowable average of daily  
18 discharges over a calendar month, calculated as the sum of all daily discharges measured  
19 during a calendar month divided by the number of daily discharges measured during that month.

20 "Average weekly discharge limitation" means the highest allowable average of daily  
21 discharges over a calendar week, calculated as the sum of all daily discharges measured during  
22 a calendar week divided by the number of daily discharges measured during that week.

23 "Best management practices" or "BMPs" means schedules of activities, prohibitions of  
24 practices, maintenance procedures, and other management practices to implement the  
25 prohibitions listed in 9VAC25-31-770 and to prevent or reduce the pollution of surface waters.

1 BMPs also include treatment requirements, operating procedures, and practices to control plant  
2 site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

3 "Biosolids" means a sewage sludge that has received an established treatment and is  
4 managed in a manner to meet the required pathogen control and vector attraction reduction,  
5 and contains concentrations of regulated pollutants below the ceiling limits established in 40  
6 CFR Part 503 and 9VAC25-31-540, such that it meets the standards established for use of  
7 biosolids for land application, marketing, or distribution in accordance with this chapter. Liquid  
8 biosolids contains less than 15% dry residue by weight. Dewatered biosolids contains 15% or  
9 more dry residue by weight.

10 "Board" means the Virginia State Water Control Board or State Water Control Board.

11 "Bypass" means the intentional diversion of waste streams from any portion of a treatment  
12 facility.

13 "Class I sludge management facility" means any POTW identified under Part VII (9VAC25-  
14 31-730 et seq.) of this chapter as being required to have an approved pretreatment program  
15 and any other treatment works treating domestic sewage classified as a Class I sludge  
16 management facility by the regional administrator, in conjunction with the director, because of  
17 the potential for its sludge use or disposal practices to adversely affect public health and the  
18 environment.

19 "Concentrated animal feeding operation" or "CAFO" means an AFO that is defined as a  
20 Large CAFO or as a Medium CAFO, or that is designated as a Medium CAFO or a Small  
21 CAFO. Any AFO may be designated as a CAFO by the director in accordance with the  
22 provisions of 9VAC25-31-130 B.

23 1. "Large CAFO." An AFO is defined as a Large CAFO if it stables or confines as many  
24 or more than the numbers of animals specified in any of the following categories:

25 a. 700 mature dairy cows, whether milked or dry;

- 1           b. 1,000 veal calves;
- 2           c. 1,000 cattle other than mature dairy cows or veal calves. Cattle includes but is not
- 3           limited to heifers, steers, bulls and cow/calf pairs;
- 4           d. 2,500 swine each weighing 55 pounds or more;
- 5           e. 10,000 swine each weighing less than 55 pounds;
- 6           f. 500 horses;
- 7           g. 10,000 sheep or lambs;
- 8           h. 55,000 turkeys;
- 9           i. 30,000 laying hens or broilers, if the AFO uses a liquid manure handling system;
- 10          j. 125,000 chickens (other than laying hens), if the AFO uses other than a liquid
- 11          manure handling system;
- 12          k. 82,000 laying hens, if the AFO uses other than a liquid manure handling system;
- 13          l. 30,000 ducks, if the AFO uses other than a liquid manure handling system; or
- 14          m. 5,000 ducks if the AFO uses a liquid manure handling system.
- 15          2. "Medium CAFO." The term Medium CAFO includes any AFO with the type and
- 16          number of animals that fall within any of the ranges below that has been defined or
- 17          designated as a CAFO. An AFO is defined as a Medium CAFO if:
  - 18               a. The type and number of animals that it stables or confines falls within any of the
  - 19               following ranges:
    - 20                   (1) 200 to 699 mature dairy cattle, whether milked or dry;
    - 21                   (2) 300 to 999 veal calves;
    - 22                   (3) 300 to 999 cattle other than mature dairy cows or veal calves. Cattle includes but
    - 23                   is not limited to heifers, steers, bulls and cow/calf pairs;
    - 24                   (4) 750 to 2,499 swine each weighing 55 pounds or more;

- 1 (5) 3,000 to 9,999 swine each weighing less than 55 pounds;
- 2 (6) 150 to 499 horses;
- 3 (7) 3,000 to 9,999 sheep or lambs;
- 4 (8) 16,500 to 29,999 laying hens or broilers, if the AFO uses a liquid manure
- 5 handling system;
- 6 (9) 37,500 to 124,999 chickens (other than laying hens), if the AFO uses other than a
- 7 liquid manure handling system;
- 8 (10) 25,000 to 81,999 laying hens, if the AFO uses other than a liquid manure
- 9 handling system;
- 10 (11) 10,000 to 29,999 ducks, if the AFO uses other than a liquid manure handling
- 11 system;
- 12 (12) 1,500 to 4,999 ducks, if the AFO uses a liquid manure handling system; and
- 13 b. Either one of the following conditions are met:
- 14 (1) Pollutants are discharged into surface waters of the state through a manmade
- 15 ditch, flushing system, or other similar manmade device; or
- 16 (2) Pollutants are discharged directly into surface waters of the state that originate
- 17 outside of and pass over, across, or through the facility or otherwise come into direct
- 18 contact with the animals confined in the operation.

19 3. "Small CAFO." An AFO that is designated as a CAFO and is not a Medium CAFO.

20 "Concentrated aquatic animal production facility" means a hatchery, fish farm, or other  
21 facility which meets the criteria of this definition, or which the board designates under 9VAC25-  
22 31-140. A hatchery, fish farm, or other facility is a concentrated aquatic animal production facility  
23 if it contains, grows, or holds aquatic animals in either of the following categories:

1 1. Cold water fish species or other cold water aquatic animals in ponds, raceways, or  
2 other similar structures which discharge at least 30 days per year but does not include:

3 a. Facilities which produce less than 9,090 harvest weight kilograms (approximately  
4 20,000 pounds) of aquatic animals per year; and

5 b. Facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of  
6 food during the calendar month of maximum feeding; or

7 2. Warm water fish species or other warm water aquatic animals in ponds, raceways, or  
8 other similar structures which discharge at least 30 days per year, but does not include:

9 a. Closed ponds which discharge only during periods of excess run-off; or

10 b. Facilities which produce less than 45,454 harvest weight kilograms (approximately  
11 100,000 pounds) of aquatic animals per year.

12 Cold water aquatic animals include, but are not limited to, the Salmonidae family of fish  
13 (e.g., trout and salmon).

14 Warm water aquatic animals include, but are not limited to, the Ictaluridae, Centrarchidae  
15 and Cyprinidae families of fish (e.g., respectively, catfish, sunfish and minnows).

16 "Contiguous zone" means the entire zone established by the United States under Article 24  
17 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906).

18 "Continuous discharge" means a discharge which occurs without interruption throughout the  
19 operating hours of the facility, except for infrequent shutdowns for maintenance, process  
20 changes, or other similar activities.

21 "Control authority" refers to the POTW if the POTW's pretreatment program submission has  
22 been approved in accordance with the requirements of 9VAC25-31-830 or the approval  
23 authority if the submission has not been approved.

1 "Co-permittee" means a permittee to a VPDES permit that is only responsible for permit  
2 conditions relating to the discharge for which it is the operator.

3 "CWA" means the Clean Water Act (33 USC § 1251 et seq.) (formerly referred to as the  
4 Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of  
5 1972) Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law  
6 96-483, Public Law 97-117, and Public Law 100-4.

7 "CWA and regulations" means the Clean Water Act (CWA) and applicable regulations  
8 promulgated thereunder. For the purposes of this chapter, it includes state program  
9 requirements.

10 "Daily discharge" means the discharge of a pollutant measured during a calendar day or any  
11 24-hour period that reasonably represents the calendar day for purposes of sampling. For  
12 pollutants with limitations expressed in units of mass, the daily discharge is calculated as the  
13 total mass of the pollutant discharged over the day. For pollutants with limitations expressed in  
14 other units of measurement, the daily discharge is calculated as the average measurement of  
15 the pollutant over the day.

16 "Department" means the Virginia Department of Environmental Quality.

17 "Designated project area" means the portions of surface within which the permittee or permit  
18 applicant plans to confine the cultivated species, using a method or plan or operation (including,  
19 but not limited to, physical confinement) which, on the basis of reliable scientific evidence, is  
20 expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy  
21 increased growth attributable to the discharge of pollutants and be harvested within a defined  
22 geographic area.

23 "Direct discharge" means the discharge of a pollutant.

24 "Director" means the Director of the Department of Environmental Quality or an authorized  
25 representative.

1 "Discharge," when used without qualification, means the discharge of a pollutant.

2 "Discharge," when used in Part VII (9VAC25-31-730 et seq.) of this chapter, means "indirect  
3 discharge" as defined in this section.

4 "Discharge of a pollutant" means:

5 1. Any addition of any pollutant or combination of pollutants to surface waters from any  
6 point source; or

7 2. Any addition of any pollutant or combination of pollutants to the waters of the  
8 contiguous zone or the ocean from any point source other than a vessel or other floating  
9 craft which is being used as a means of transportation.

10 This definition includes additions of pollutants into surface waters from: surface run-off which  
11 is collected or channeled by man; discharges through pipes, sewers, or other conveyances  
12 owned by a state, municipality, or other person which do not lead to a treatment works; and  
13 discharges through pipes, sewers, or other conveyances, leading into privately owned treatment  
14 works. This term does not include an addition of pollutants by any indirect discharger.

15 "Discharge Monitoring Report" or "DMR" means the form supplied by the department or an  
16 equivalent form developed by the permittee and approved by the board, for the reporting of self-  
17 monitoring results by permittees.

18 "Draft permit" means a document indicating the board's tentative decision to issue or deny,  
19 modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a  
20 permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request  
21 for modification, revocation and reissuance, or termination is not a draft permit. A proposed  
22 permit is not a draft permit.

23 "Effluent limitation" means any restriction imposed by the board on quantities, discharge  
24 rates, and concentrations of pollutants which are discharged from point sources into surface  
25 waters, the waters of the contiguous zone, or the ocean.

1 "Effluent limitations guidelines" means a regulation published by the administrator under §  
2 304(b) of the CWA to adopt or revise effluent limitations.

3 "Environmental Protection Agency" or "EPA" means the United States Environmental  
4 Protection Agency.

5 "Existing source" means any source which is not a new source or a new discharger.

6 "Facilities or equipment" means buildings, structures, process or production equipment or  
7 machinery which form a permanent part of a new source and which will be used in its operation,  
8 if these facilities or equipment are of such value as to represent a substantial commitment to  
9 construct. It excludes facilities or equipment used in connection with feasibility, engineering, and  
10 design studies regarding the new source or water pollution treatment for the new source.

11 "Facility or activity" means any VPDES point source or treatment works treating domestic  
12 sewage or any other facility or activity (including land or appurtenances thereto) that is subject  
13 to regulation under the VPDES program.

14 "General permit" means a VPDES permit authorizing a category of discharges under the  
15 CWA and the law within a geographical area.

16 "Hazardous substance" means any substance designated under the Code of Virginia and 40  
17 CFR Part 116 pursuant to § 311 of the CWA.

18 "Incorporated place" means a city, town, township, or village that is incorporated under the  
19 Code of Virginia.

20 "Indian country" means (i) all land within the limits of any Indian reservation under the  
21 jurisdiction of the United States government, notwithstanding the issuance of any patent, and  
22 including rights-of-way running through the reservation; (ii) all dependent Indian communities  
23 with the borders of the United States whether within the originally or subsequently acquired  
24 territory thereof, and whether within or without the limits of a state; and (iii) all Indian allotments,

1 the Indian titles to which have not been extinguished, including rights-of-way running through  
2 the same.

3 "Indirect discharge" means the introduction of pollutants into a POTW from any nondomestic  
4 source regulated under § 307(b), (c) or (d) of the CWA and the law.

5 "Indirect discharger" means a nondomestic discharger introducing pollutants to a POTW.

6 "Individual control strategy" means a final VPDES permit with supporting documentation  
7 showing that effluent limits are consistent with an approved wasteload allocation or other  
8 documentation that shows that applicable water quality standards will be met not later than  
9 three years after the individual control strategy is established.

10 "Industrial residual" means solid or semi-solid industrial waste including solids, residues, and  
11 precipitates separated or created by the unit processes of a device or system used to treat  
12 industrial wastes.

13 "Industrial user" or "user" means a source of indirect discharge.

14 "Industrial wastes" means liquid or other wastes resulting from any process of industry,  
15 manufacture, trade, or business, or from the development of any natural resources.

16 "Interference" means an indirect discharge which, alone or in conjunction with an indirect  
17 discharge or discharges from other sources, both: (i) inhibits or disrupts the POTW, its treatment  
18 processes or operations, or its sludge processes, use or disposal; and (ii) therefore is a cause of  
19 a violation of any requirement of the POTW's VPDES permit (including an increase in the  
20 magnitude or duration of a violation) or of the prevention of biosolids use or sewage sludge  
21 disposal in compliance with the following statutory provisions and regulations or permits issued  
22 thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act,  
23 the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the  
24 Resource Conservation and Recovery Act (RCRA) (42 USC § 6901 et seq.), and including state  
25 regulations contained in any state sludge management plan prepared pursuant to Subtitle D of

1 the SWDA) the Clean Air Act (42 USC § 701 et seq.), the Toxic Substances Control Act (15  
2 USC § 2601 et seq.), and the Marine Protection, Research and Sanctuaries Act (33 USC §  
3 1401 et seq.).

4 "Interstate agency" means an agency of two or more states established by or under an  
5 agreement or compact approved by Congress, or any other agency of two or more states  
6 having substantial powers or duties pertaining to the control of pollution as determined and  
7 approved by the administrator under the CWA and regulations.

8 "Land application" means, in regard to sewage, biosolids and industrial residuals, the  
9 distribution of treated wastewater of acceptable quality, referred to as effluent, or stabilized  
10 sewage sludge of acceptable quality, referred to as biosolids, or industrial residuals by  
11 spreading or spraying on the surface of the land, injecting below the surface of the land, or  
12 incorporating into the soil with a uniform application rate for the purpose of fertilizing crops or  
13 vegetation or conditioning the soil. Sites approved for land application of biosolids in accordance  
14 with this chapter are not to be considered to be treatment works. Bulk disposal of stabilized  
15 sludge or industrial residuals in a confined area, such as in landfills, is not land application. For  
16 the purpose of this chapter, the use of biosolids in agricultural research and the distribution and  
17 marketing of exceptional quality biosolids are not land application.

18 "Land application area" means, in regard to an AFO, land under the control of an AFO  
19 owner or operator, that is owned, rented, or leased to which manure, litter or process  
20 wastewater from the production area may be applied.

21 "Land application area" means, in regard to biosolids, the area in the permitted field,  
22 excluding the setback area, where biosolids may be applied.

23 "Local ordinance" means an ordinance adopted by counties, cities, or towns in accordance  
24 with § 62.1-44.16 or 62.1-44.19:3 of the Code of Virginia.

1 "Log sorting facilities" and "log storage facilities" mean facilities whose discharges result  
2 from the holding of unprocessed wood, for example, logs or roundwood with bark or after  
3 removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on  
4 land where water is applied intentionally on the logs (wet decking).

5 "Major facility" means any VPDES facility or activity classified as such by the regional  
6 administrator in conjunction with the board.

7 "Malodor" means an unusually strong or offensive odor associated with biosolids or sewage  
8 sludge as distinguished from odors normally associated with biosolids or sewage sludge.

9 "Manmade" means constructed by man and used for the purpose of transporting wastes.

10 "Manure" means manure, bedding, compost and raw materials or other materials  
11 commingled with manure or set aside for disposal.

12 "Maximum daily discharge limitation" means the highest allowable daily discharge.

13 "Municipal separate storm sewer" means a conveyance or system of conveyances, including  
14 roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade  
15 channels, or storm drains, (i) owned or operated by a state, city, town, borough, county, parish,  
16 district, association, or other public body (created by or pursuant to state law) having jurisdiction  
17 over disposal of sewage, industrial wastes, storm water, or other wastes, including special  
18 districts under state law, such as a sewer district, flood control district or drainage district, or  
19 similar entity, or an Indian tribe or an authorized Indian tribal organization or a designated and  
20 approved management agency under § 208 of the CWA, that discharges to surface waters of  
21 the state; (ii) designed or used for collecting or conveying storm water; (iii) that is not a  
22 combined sewer; and (iv) that is not part of a publicly owned treatment works (POTW).

23 "Municipality" means a city, town, county, district, association, or other public body created  
24 by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other

1 wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and  
2 approved management agency under § 208 of the CWA.

3 "National Pollutant Discharge Elimination System" or "NPDES" means the national program  
4 for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits,  
5 and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and 405 of the  
6 CWA. The term includes an approved program.

7 "National pretreatment standard," "pretreatment standard," or "standard," when used in Part  
8 VII (9VAC25-31-730 et seq.) of this chapter, means any regulation containing pollutant  
9 discharge limits promulgated by the EPA in accordance with § 307(b) and (c) of the CWA, which  
10 applies to industrial users. This term includes prohibitive discharge limits established pursuant  
11 to 9VAC25-31-770.

12 "New discharger" means any building, structure, facility, or installation:

- 13 1. From which there is or may be a discharge of pollutants;
- 14 2. That did not commence the discharge of pollutants at a particular site prior to August  
15 13, 1979;
- 16 3. Which is not a new source; and
- 17 4. Which has never received a finally effective VPDES permit for discharges at that site.

18 This definition includes an indirect discharger which commences discharging into surface  
19 waters after August 13, 1979. It also includes any existing mobile point source (other than an  
20 offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental  
21 drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant,  
22 that begins discharging at a site for which it does not have a permit; and any offshore or coastal  
23 mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig  
24 that commences the discharge of pollutants after August 13, 1979.

1 "New source," except when used in Part VII (9VAC25-31-730 et seq.) of this chapter, means  
2 any building, structure, facility, or installation from which there is or may be a discharge of  
3 pollutants, the construction of which commenced:

4 1. After promulgation of standards of performance under § 306 of the CWA which are  
5 applicable to such source; or

6 2. After proposal of standards of performance in accordance with § 306 of the CWA  
7 which are applicable to such source, but only if the standards are promulgated in  
8 accordance with § 306 of the CWA within 120 days of their proposal.

9 "New source," when used in Part VII of this chapter, means any building, structure, facility,  
10 or installation from which there is or may be a discharge of pollutants, the construction of which  
11 commenced after the publication of proposed pretreatment standards under § 307(c) of the  
12 CWA which will be applicable to such source if such standards are thereafter promulgated in  
13 accordance with that section, provided that:

14 1. a. The building, structure, facility or installation is constructed at a site at which no  
15 other source is located;

16 b. The building, structure, facility, or installation totally replaces the process or  
17 production equipment that causes the discharge of pollutants at an existing source;  
18 or

19 c. The production of wastewater generating processes of the building, structure,  
20 facility, or installation are substantially independent of an existing source at the same  
21 site. In determining whether these are substantially independent, factors such as the  
22 extent to which the new facility is integrated with the existing plant, and the extent to  
23 which the new facility is engaged in the same general type of activity as the existing  
24 source should be considered.

1 2. Construction on a site at which an existing source is located results in a modification  
2 rather than a new source if the construction does not create a new building, structure,  
3 facility, or installation meeting the criteria of subdivision 1 b or c of this definition but  
4 otherwise alters, replaces, or adds to existing process or production equipment.

5 3. Construction of a new source as defined under this subdivision has commenced if the  
6 owner or operator has:

7 a. Begun, or caused to begin, as part of a continuous on-site construction program:

8 (1) Any placement, assembly, or installation of facilities or equipment; or

9 (2) Significant site preparation work including clearing, excavation, or removal of  
10 existing buildings, structures, or facilities which is necessary for the placement,  
11 assembly, or installation of new source facilities or equipment; or

12 b. Entered into a binding contractual obligation for the purchase of facilities or  
13 equipment which are intended to be used in its operation within a reasonable time.  
14 Options to purchase or contracts which can be terminated or modified without  
15 substantial loss, and contracts for feasibility, engineering, and design studies do not  
16 constitute a contractual obligation under this subdivision.

17 "Overburden" means any material of any nature, consolidated or unconsolidated, that  
18 overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that  
19 are not disturbed by mining operations.

20 "Owner" means the Commonwealth or any of its political subdivisions including, but not  
21 limited to, sanitation district commissions and authorities, and any public or private institution,  
22 corporation, association, firm or company organized or existing under the laws of this or any  
23 other state or country, or any officer or agency of the United States, or any person or group of  
24 persons acting individually or as a group that owns, operates, charters, rents, or otherwise  
25 exercises control over or is responsible for any actual or potential discharge of sewage,

1 industrial wastes, or other wastes to state waters, or any facility or operation that has the  
2 capability to alter the physical, chemical, or biological properties of state waters in contravention  
3 of § 62.1-44.5 of the Code of Virginia.

4 "Owner" or "operator" means the owner or operator of any facility or activity subject to  
5 regulation under the VPDES program.

6 "Pass through" means a discharge which exits the POTW into state waters in quantities or  
7 concentrations which, alone or in conjunction with a discharge or discharges from other  
8 sources, is a cause of a violation of any requirement of the POTW's VPDES permit (including an  
9 increase in the magnitude or duration of a violation).

10 "Permit" means an authorization, certificate, license, or equivalent control document issued  
11 by the board to implement the requirements of this chapter. Permit includes a VPDES general  
12 permit. Permit does not include any permit which has not yet been the subject of final agency  
13 action, such as a draft permit or a proposed permit.

14 "Person" means an individual, corporation, partnership, association, a governmental body, a  
15 municipal corporation, or any other legal entity.

16 "Point source" means any discernible, confined, and discrete conveyance including, but not  
17 limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,  
18 concentrated animal feeding operation, landfill leachate collection system, vessel, or other  
19 floating craft from which pollutants are or may be discharged. This term does not include return  
20 flows from irrigated agriculture or agricultural storm water run-off.

21 "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage,  
22 garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials  
23 (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 et  
24 seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal,  
25 and agricultural waste discharged into water. It does not mean:

- 1           1. Sewage from vessels; or
- 2           2. Water, gas, or other material which is injected into a well to facilitate production of oil
- 3           or gas, or water derived in association with oil and gas production and disposed of in a
- 4           well if the well used either to facilitate production or for disposal purposes is approved by
- 5           the board, and if the board determines that the injection or disposal will not result in the
- 6           degradation of ground or surface water resources.

7           "POTW treatment plant" means that portion of the POTW which is designed to provide  
8 treatment (including recycling and reclamation) of municipal sewage and industrial waste.

9           "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants,  
10 or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of  
11 discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration  
12 may be obtained by physical, chemical or biological processes, process changes or by other  
13 means, except as prohibited in Part VII of this chapter. Appropriate pretreatment technology  
14 includes control equipment, such as equalization tanks or facilities, for protection against surges  
15 or slug loadings that might interfere with or otherwise be incompatible with the POTW. However,  
16 where wastewater from a regulated process is mixed in an equalization facility with unregulated  
17 wastewater or with wastewater from another regulated process, the effluent from the  
18 equalization facility must meet an adjusted pretreatment limit calculated in accordance with Part  
19 VII of this chapter.

20           "Pretreatment requirements" means any requirements arising under Part VII (9VAC25-31-  
21 730 et seq.) of this chapter including the duty to allow or carry out inspections, entry or  
22 monitoring activities; any rules, regulations, or orders issued by the owner of a publicly owned  
23 treatment works; or any reporting requirements imposed by the owner of a publicly owned  
24 treatment works or by the regulations of the board. Pretreatment requirements do not include  
25 the requirements of a national pretreatment standard.

1 "Primary industry category" means any industry category listed in the NRDC settlement  
2 agreement (Natural Resources Defense Council et al. v. Train, 8 E.R.C. 2120 (D.D.C. 1976),  
3 modified 12 E.R.C. 1833 (D.D.C. 1979)); also listed in 40 CFR Part 122 Appendix A.

4 "Privately owned treatment works" or "PVOTW" means any device or system which is (i)  
5 used to treat wastes from any facility whose operator is not the operator of the treatment works  
6 and (ii) not a POTW.

7 "Process wastewater" means any water which, during manufacturing or processing, comes  
8 into direct contact with or results from the production or use of any raw material, intermediate  
9 product, finished product, byproduct, or waste product. Process wastewater from an AFO  
10 means water directly or indirectly used in the operation of the AFO for any of the following:  
11 spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing  
12 pens, barns, manure pits, or other AFO facilities; direct contact swimming, washing, or spray  
13 cooling of the animals; or dust control. Process wastewater from an AFO also includes any  
14 water that comes into contact with any raw materials, products, or byproducts including manure,  
15 litter, feed, milk, eggs or bedding.

16 "Production area" means that part of an AFO that includes the animal confinement area, the  
17 manure storage area, the raw materials storage area, and the waste containment areas. The  
18 animal confinement area includes but is not limited to open lots, housed lots, feedlots,  
19 confinement houses, stall barns, free stall barns, milkrooms, milking centers, cowyards,  
20 barnyards, medication pens, walkers, animal walkways, and stables. The manure storage area  
21 includes but is not limited to lagoons, runoff ponds, storage sheds, stockpiles, under house or  
22 pit storages, liquid impoundments, static piles, and composting piles. The raw materials storage  
23 areas includes but is not limited to feed silos, silage bunkers, and bedding materials. The waste  
24 containment area includes but is not limited to settling basins, and areas within berms and  
25 diversions that separate uncontaminated storm water. Also included in the definition of

1 production area is any egg washing or egg processing facility, and any area used in the storage,  
2 handling, treatment, or disposal of mortalities.

3 "Proposed permit" means a VPDES permit prepared after the close of the public comment  
4 period (and, when applicable, any public hearing and administrative appeals) which is sent to  
5 EPA for review before final issuance. A proposed permit is not a draft permit.

6 "Publicly owned treatment works" or "POTW" means a treatment works as defined by § 212  
7 of the CWA, which is owned by a state or municipality (as defined by § 502(4) of the CWA). This  
8 definition includes any devices and systems used in the storage, treatment, recycling, and  
9 reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers,  
10 pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The  
11 term also means the municipality as defined in § 502(4) of the CWA, which has jurisdiction over  
12 the indirect discharges to and the discharges from such a treatment works.

13 "Recommencing discharger" means a source which recommences discharge after  
14 terminating operations.

15 "Regional administrator" means the Regional Administrator of Region III of the  
16 Environmental Protection Agency or the authorized representative of the regional administrator.

17 "Rock crushing and gravel washing facilities" means facilities which process crushed and  
18 broken stone, gravel, and riprap.

19 "Schedule of compliance" means a schedule of remedial measures included in a permit,  
20 including an enforceable sequence of interim requirements (for example, actions, operations, or  
21 milestone events) leading to compliance with the law, the CWA and regulations.

22 "Secondary industry category" means any industry category which is not a primary industry  
23 category.

24 "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

1 "Septage" means the liquid and solid material pumped from a septic tank, cesspool, or  
2 similar domestic sewage treatment system, or a holding tank when the system is cleaned or  
3 maintained.

4 "Setback area" means the area of land between the boundary of the land application area  
5 and adjacent features where biosolids or other managed pollutants may not be land applied.

6 "Severe property damage" means substantial physical damage to property, damage to the  
7 treatment facilities which causes them to become inoperable, or substantial and permanent loss  
8 of natural resources which can reasonably be expected to occur in the absence of a bypass.  
9 Severe property damage does not mean economic loss caused by delays in production.

10 "Sewage from vessels" means human body wastes and the wastes from toilets and other  
11 receptacles intended to receive or retain body wastes that are discharged from vessels and  
12 regulated under § 312 of CWA.

13 "Sewage sludge" means any solid, semisolid, or liquid residue removed during the treatment  
14 of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to,  
15 solids removed during primary, secondary, or advanced wastewater treatment, scum, domestic  
16 septage, portable toilet pumpings, type III marine sanitation device pumpings, and sewage  
17 sludge products. Sewage sludge does not include grit or screenings, or ash generated during  
18 the incineration of sewage sludge.

19 "Sewage sludge use" or "disposal practice" means the collection, storage, treatment,  
20 transportation, processing, monitoring, use of biosolids, or disposal of sewage sludge.

21 "Significant industrial user" or "SIU" means:

22 1. Except as provided in subdivisions 2 and 3 of this definition:

23 a. All industrial users subject to categorical pretreatment standards under 9VAC25-  
24 31-780 and incorporated by reference in 9VAC25-31-30; and

- 1           b. Any other industrial user that: discharges an average of 25,000 gallons per day or  
2           more of process wastewater to the POTW (excluding sanitary, noncontact cooling  
3           and boiler blowdown wastewater); contributes a process wastestream which makes  
4           up 5.0% or more of the average dry weather hydraulic or organic capacity of the  
5           POTW treatment plant; or is designated as such by the control authority, on the basis  
6           that the industrial user has a reasonable potential for adversely affecting the POTW's  
7           operation or for violating any pretreatment standard or requirement.
- 8           2. The control authority may determine that an industrial user subject to categorical  
9           pretreatment standards under 9VAC25-31-780 and 40 CFR chapter I, subchapter N is a  
10          nonsignificant categorical industrial user rather than a significant industrial user on a  
11          finding that the industrial user never discharges more than 100 gallons per day (gpd) of  
12          total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown  
13          wastewater, unless specifically included in the pretreatment standard) and the following  
14          conditions are met:
- 15           a. The industrial user, prior to control authority's finding, has consistently complied  
16           with all applicable categorical pretreatment standards and requirements;
- 17           b. The industrial user annually submits the certification statement required in  
18           9VAC25-31-840 together with any additional information necessary to support the  
19           certification statement; and
- 20           c. The industrial user never discharges any untreated concentrated wastewater.
- 21          3. Upon a finding that an industrial user meeting the criteria in subdivision 1 b of this  
22          definition has no reasonable potential for adversely affecting the POTW's operation or  
23          for violating any pretreatment standard or requirement, the control authority may at any  
24          time, on its own initiative or in response to a petition received from an industrial user or

1 POTW, and in accordance with Part VII (9VAC25-31-730 et seq.) of this chapter,  
2 determine that such industrial user is not a significant industrial user.

3 "Significant materials" means, but is not limited to: raw materials; fuels; materials such as  
4 solvents, detergents, and plastic pellets; finished materials such as metallic products; raw  
5 materials used in food processing or production; hazardous substances designated under §  
6 101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility is required to report  
7 pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers; pesticides; and waste  
8 products such as ashes, slag and sludge that have the potential to be released with storm water  
9 discharges.

10 "Silvicultural point source" means any discernible, confined and discrete conveyance related  
11 to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in  
12 connection with silvicultural activities and from which pollutants are discharged into surface  
13 waters. The term does not include nonpoint source silvicultural activities such as nursery  
14 operations, site preparation, reforestation and subsequent cultural treatment, thinning,  
15 prescribed burning, pest and fire control, harvesting operations, surface drainage, or road  
16 construction and maintenance from which there is natural run-off. However, some of these  
17 activities (such as stream crossing for roads) may involve point source discharges of dredged or  
18 fill material which may require a CWA § 404 permit.

19 "Site" means the land or water area where any facility or activity is physically located or  
20 conducted, including adjacent land used in connection with the facility or activity.

21 "Sludge-only facility" means any treatment works treating domestic sewage whose methods  
22 of biosolids use or sewage sludge disposal are subject to regulations promulgated pursuant to  
23 the law and § 405(d) of the CWA, and is required to obtain a VPDES permit.

24 "Source" means any building, structure, facility, or installation from which there is or may be  
25 a discharge of pollutants.

1 "Standards for biosolids use or sewage sludge disposal" means the regulations promulgated  
2 pursuant to the law and § 405(d) of the CWA which govern minimum requirements for sludge  
3 quality, management practices, and monitoring and reporting applicable to sewage sludge or  
4 the use of biosolids or disposal of sewage sludge by any person.

5 "State" means the Commonwealth of Virginia.

6 "State/EPA agreement" means an agreement between the regional administrator and the  
7 state which coordinates EPA and state activities, responsibilities and programs including those  
8 under the CWA and the law.

9 "State Water Control Law" or "Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of  
10 the Code of Virginia.

11 "Storm water" means storm water run-off, snow melt run-off, and surface run-off and  
12 drainage.

13 "Storm water discharge associated with industrial activity" means the discharge from any  
14 conveyance which is used for collecting and conveying storm water and which is directly related  
15 to manufacturing, processing, or raw materials storage areas at an industrial plant. The term  
16 does not include discharges from facilities or activities excluded from the VPDES program. For  
17 the categories of industries identified in this definition, the term includes, but is not limited to,  
18 storm water discharges from industrial plant yards; immediate access roads and rail lines used  
19 or traveled by carriers of raw materials, manufactured products, waste material, or byproducts  
20 used or created by the facility; material handling sites; refuse sites; sites used for the application  
21 or disposal of process wastewaters; sites used for the storage and maintenance of material  
22 handling equipment; sites used for residual treatment, storage, or disposal; shipping and  
23 receiving areas; manufacturing buildings; storage areas (including tank farms) for raw materials,  
24 and intermediate and final products; and areas where industrial activity has taken place in the  
25 past and significant materials remain and are exposed to storm water. For the purposes of this

1 definition, material handling activities include the storage, loading and unloading, transportation,  
2 or conveyance of any raw material, intermediate product, final product, byproduct, or waste  
3 product. The term excludes areas located on plant lands separate from the plant's industrial  
4 activities, such as office buildings and accompanying parking lots as long as the drainage from  
5 the excluded areas is not mixed with storm water drained from the above described areas.  
6 Industrial facilities (including industrial facilities that are federally, state, or municipally owned or  
7 operated that meet the description of the facilities listed in subdivisions 1 through 10 of this  
8 definition) include those facilities designated under the provisions of 9VAC25-31-120 A 1 c. The  
9 following categories of facilities are considered to be engaging in industrial activity for purposes  
10 of this subsection:

- 11 1. Facilities subject to storm water effluent limitations guidelines, new source  
12 performance standards, or toxic pollutant effluent standards under 40 CFR Subchapter  
13 N (except facilities with toxic pollutant effluent standards that are exempted under  
14 category 10);
- 15 2. Facilities classified as Standard Industrial Classifications 24 (except 2434), 26 (except  
16 265 and 267), 28 (except 283), 29, 311, 32 (except 323), 33, 3441, 373;
- 17 3. Facilities classified as Standard Industrial Classifications 10 through 14 (mineral  
18 industry) including active or inactive mining operations (except for areas of coal mining  
19 operations no longer meeting the definition of a reclamation area under 40 CFR  
20 434.11(l) because the performance bond issued to the facility by the appropriate  
21 SMCRA authority has been released, or except for areas of non-coal mining operations  
22 which have been released from applicable state or federal reclamation requirements  
23 after December 17, 1990) and oil and gas exploration, production, processing, or  
24 treatment operations, or transmission facilities that discharge storm water contaminated  
25 by contact with or that has come into contact with, any overburden, raw material,

1 intermediate products, finished products, byproducts, or waste products located on the  
2 site of such operations; (inactive mining operations are mining sites that are not being  
3 actively mined, but which have an identifiable owner/operator; inactive mining sites do  
4 not include sites where mining claims are being maintained prior to disturbances  
5 associated with the extraction, beneficiation, or processing of mined materials, nor sites  
6 where minimal activities are undertaken for the sole purpose of maintaining a mining  
7 claim);

8 4. Hazardous waste treatment, storage, or disposal facilities, including those that are  
9 operating under interim status or a permit under Subtitle C of RCRA (42 USC § 6901 et  
10 seq.);

11 5. Landfills, land application sites, and open dumps that receive or have received any  
12 industrial wastes (waste that is received from any of the facilities described under this  
13 subsection) including those that are subject to regulation under Subtitle D of RCRA (42  
14 USC § 6901 et seq.);

15 6. Facilities involved in the recycling of materials, including metal scrapyards, battery  
16 reclaimers, salvage yards, and automobile junkyards, including but limited to those  
17 classified as Standard Industrial Classification 5015 and 5093;

18 7. Steam electric power generating facilities, including coal handling sites;

19 8. Transportation facilities classified as Standard Industrial Classifications 40, 41, 42  
20 (except 4221-25), 43, 44, 45, and 5171 which have vehicle maintenance shops,  
21 equipment cleaning operations, or airport deicing operations. Only those portions of the  
22 facility that are either involved in vehicle maintenance (including vehicle rehabilitation,  
23 mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations,  
24 airport deicing operations, or which are otherwise identified under subdivisions 1 through  
25 7 or 9 and 10 of this definition are associated with industrial activity;

1 9. Treatment works treating domestic sewage or any other sewage sludge or wastewater  
2 treatment device or system, used in the storage treatment, recycling, and reclamation of  
3 municipal or domestic sewage, including land dedicated to the disposal of sewage  
4 sludge that are located within the confines of the facility, with a design flow of 1.0 mgd or  
5 more, or required to have an approved pretreatment program. Not included are farm  
6 lands, domestic gardens or lands used for sludge management where sludge is  
7 beneficially reused and which are not physically located in the confines of the facility, or  
8 areas that are in compliance with § 405 of the CWA; and

9 10. Facilities under Standard Industrial Classifications 20, 21, 22, 23, 2434, 25, 265,  
10 267, 27, 283, 30, 31 (except 311), 323, 34 (except 3441), 35, 36, 37 (except 373), 38,  
11 39, and 4221-25.

12 "Submission" means: (i) a request by a POTW for approval of a pretreatment program to the  
13 regional administrator or the director; (ii) a request by POTW to the regional administrator or the  
14 director for authority to revise the discharge limits in categorical pretreatment standards to  
15 reflect POTW pollutant removals; or (iii) a request to the EPA by the director for approval of the  
16 Virginia pretreatment program.

17 "Surface waters" means:

18 1. All waters which are currently used, were used in the past, or may be susceptible to  
19 use in interstate or foreign commerce, including all waters which are subject to the ebb  
20 and flow of the tide;

21 2. All interstate waters, including interstate wetlands;

22 3. All other waters such as intrastate lakes, rivers, streams (including intermittent  
23 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa  
24 lakes, or natural ponds the use, degradation, or destruction of which would affect or  
25 could affect interstate or foreign commerce including any such waters:

- 1 a. Which are or could be used by interstate or foreign travelers for recreational or
- 2 other purposes;
- 3 b. From which fish or shellfish are or could be taken and sold in interstate or foreign
- 4 commerce; or
- 5 c. Which are used or could be used for industrial purposes by industries in interstate
- 6 commerce;
- 7 4. All impoundments of waters otherwise defined as surface waters under this definition;
- 8 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
- 9 6. The territorial sea; and
- 10 7. Wetlands adjacent to waters (other than waters that are themselves wetlands)
- 11 identified in subdivisions 1 through 6 of this definition.

12 Waste treatment systems, including treatment ponds or lagoons designed to meet the  
13 requirements of the CWA and the law, are not surface waters. Surface waters do not include  
14 prior converted cropland. Notwithstanding the determination of an area's status as prior  
15 converted cropland by any other agency, for the purposes of the Clean Water Act, the final  
16 authority regarding the Clean Water Act jurisdiction remains with the EPA.

17 "Total dissolved solids" means the total dissolved (filterable) solids as determined by use of  
18 the method specified in 40 CFR Part 136.

19 "Toxic pollutant" means any pollutant listed as toxic under § 307(a)(1) of the CWA or, in the  
20 case of sludge use or disposal practices, any pollutant identified in regulations implementing §  
21 405(d) of the CWA.

22 "Treatment facility" means only those mechanical power driven devices necessary for the  
23 transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

1 "Treatment works" means any devices and systems used for the storage, treatment,  
2 recycling or reclamation of sewage or liquid industrial waste, or other waste or necessary to  
3 recycle or reuse water, including intercepting sewers, outfall sewers, sewage collection  
4 systems, individual systems, pumping, power and other equipment and their appurtenances;  
5 extensions, improvements, remodeling, additions, or alterations thereof; and any works,  
6 including land that will be an integral part of the treatment process or is used for ultimate  
7 disposal of residues resulting from such treatment; or any other method or system used for  
8 preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste or  
9 industrial waste, including waste in combined sewer water and sanitary sewer systems.

10 "Treatment works treating domestic sewage" means a POTW or any other sewage sludge or  
11 wastewater treatment devices or systems, regardless of ownership (including federal facilities),  
12 used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage,  
13 including land dedicated for the disposal of sewage sludge. This definition does not include  
14 septic tanks or similar devices. For purposes of this definition, domestic sewage includes waste  
15 and wastewater from humans or household operations that are discharged to or otherwise enter  
16 a treatment works.

17 "TWTDS" means treatment works treating domestic sewage.

18 "Uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or  
19 closed, that does not meet the requirements for run-on or run-off controls established pursuant  
20 to subtitle D of the Solid Waste Disposal Act (42 USC § 6901 et seq.).

21 "Upset," except when used in Part VII (9VAC25-31-730 et seq.) of this chapter, means an  
22 exceptional incident in which there is unintentional and temporary noncompliance with  
23 technology based permit effluent limitations because of factors beyond the reasonable control of  
24 the permittee. An upset does not include noncompliance to the extent caused by operational

1 error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive  
2 maintenance, or careless or improper operation.

3 "Variance" means any mechanism or provision under § 301 or § 316 of the CWA or under  
4 40 CFR Part 125, or in the applicable effluent limitations guidelines which allows modification to  
5 or waiver of the generally applicable effluent limitation requirements or time deadlines of the  
6 CWA. This includes provisions which allow the establishment of alternative limitations based on  
7 fundamentally different factors or on §§ 301(c), 301(g), 301(h), 301(i), or 316(a) of the CWA.

8 "Vegetated buffer" means a permanent strip of dense perennial vegetation established  
9 parallel to the contours of and perpendicular to the dominant slope of the field for the purposes  
10 of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential  
11 nutrients or pollutants from leaving the field and reaching surface waters.

12 "Virginia Pollutant Discharge Elimination System permit" or "VPDES permit" means a  
13 document issued by the board pursuant to this chapter authorizing, under prescribed conditions,  
14 the potential or actual discharge of pollutants from a point source to surface waters and the use  
15 of biosolids or disposal of sewage sludge. Under the approved state program, a VPDES permit  
16 is equivalent to an NPDES permit.

17 "VPDES application" or "application" means the standard form or forms, including any  
18 additions, revisions or modifications to the forms, approved by the administrator and the board  
19 for applying for a VPDES permit.

20 "Wastewater," when used in Part VII (9VAC25-31-730 et seq.) of this chapter, means liquid  
21 and water carried industrial wastes and domestic sewage from residential dwellings, commercial  
22 buildings, industrial and manufacturing facilities and institutions, whether treated or untreated,  
23 which are contributed to the POTW.

24 "Wastewater works operator" means any individual employed or appointed by any owner,  
25 and who is designated by such owner to be the person in responsible charge, such as a

1 supervisor, a shift operator, or a substitute in charge, and whose duties include testing or  
2 evaluation to control wastewater works operations. Not included in this definition are  
3 superintendents or directors of public works, city engineers, or other municipal or industrial  
4 officials whose duties do not include the actual operation or direct supervision of wastewater  
5 works.

6 "Water Management Division Director" means the director of the Region III Water  
7 Management Division of the Environmental Protection Agency or this person's delegated  
8 representative.

9 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at  
10 a frequency and duration sufficient to support, and that under normal circumstances do support,  
11 a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands  
12 generally include swamps, marshes, bogs, and similar areas.

13 "Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by  
14 a toxicity test.

#### 15 Statutory Authority

16 § 62.1-44.15 of the Code of Virginia; § 402 of the federal Clean Water Act; 40 CFR Parts 122,  
17 123, 124, 403, and 503.

#### 18 Historical Notes

19 Derived from Virginia Register Volume 12, Issue 20, eff. July 24, 1996; amended, Virginia  
20 Register Volume 16, Issue 25, eff. September 27, 2000; Volume 17, Issue 13, eff. April 11,  
21 2001; Volume 18, Issue 9, eff. February 15, 2002; Volume 21, Issue 2, eff. November 3, 2004;  
22 Volume 21, Issue 9, eff. February 9, 2005; Errata 21:13 VA.R. 1941 March 7, 2005; amended,  
23 Virginia Register Volume 22, Issue 24, eff. September 6, 2006; Volume 28, Issue 10, eff.  
24 February 15, 2012; Volume 29, Issue 24, eff. September 1, 2013; Volume 30, Issue 11, eff.  
25 February 26, 2014.

1 ~~9VAC25-31-475. Local enforcement of biosolids regulations.~~(Repealed.)

2 ~~A. In the event of a dispute concerning the existence of a violation between a permittee and~~  
3 ~~a locality that has adopted a local ordinance for testing and monitoring of the land application of~~  
4 ~~biosolids, the activity alleged to be in violation shall be halted pending a determination by the~~  
5 ~~director.~~

6 ~~B. Upon determination by the director that there has been a violation of § 62.1-44.19:3,~~  
7 ~~62.1-44.19:3.1 or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under~~  
8 ~~those sections, and that such violation poses an imminent threat to public health, safety or~~  
9 ~~welfare, the department shall commence appropriate action to abate the violation and~~  
10 ~~immediately notify the chief administrative officer of any locality potentially affected by the~~  
11 ~~violation.~~

12 ~~C. Local governments shall promptly notify the department of all results from the testing and~~  
13 ~~monitoring of the land application of biosolids performed by persons employed by local~~  
14 ~~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~~  
15 ~~of Virginia.~~

16 ~~D. Local governments receiving complaints concerning land application of biosolids shall~~  
17 ~~notify the department and the permit holder within 24 hours of receiving the complaint.~~

18 Statutory Authority

19 § 62.1-44.15 of the Code of Virginia.

20 Historical Notes

21 Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia  
22 Register Volume 29, Issue 24, eff. September 1, 2013.

1 **9VAC25-31-915. Local Enforcement.**

2 A. In the event of a dispute concerning the existence of a violation between a permittee and  
3 a locality that has adopted a local ordinance for testing and monitoring of the land application of  
4 biosolids ~~or industrial residuals~~, the activity alleged to be in violation shall be halted pending a  
5 determination by the director.

6 B. Upon determination by the director that there has been a violation of § ~~62.1-44.16~~, 62.1-  
7 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  
8 promulgated under those sections, ~~or of any permit or certificate issued for land application of~~  
9 ~~industrial residuals~~, and that such violation poses an imminent threat to public health, safety or  
10 welfare, the department shall commence appropriate action to abate the violation and  
11 immediately notify the chief administrative officer of any locality potentially affected by the  
12 violation.

13 C. Local governments shall promptly notify the department of all results from the testing and  
14 monitoring of the land application of biosolids ~~or industrial residuals~~ performed by persons  
15 employed by local governments and any violation of § ~~62.1-44.16~~, 62.1-44.19:3, 62.1-44.19:3.1,  
16 or 62.1-44.19:3.3 of the Code of Virginia ~~or of any permit or certificate issued for land~~  
17 ~~application of industrial residuals discovered by local governments~~.

18 D. Local governments receiving complaints concerning land application of biosolids ~~or~~  
19 ~~industrial residuals~~ shall notify the department and the permit holder within 24 hours of receiving  
20 the complaint.

21 Statutory Authority

22 § 62.1-44.15 of the Code of Virginia.

23 Historical Notes

24 Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia  
25 Register Volume 29, Issue 24, eff. September 1, 2013.

1 CHAPTER 32

2 VIRGINIA POLLUTION ABATEMENT (VPA) PERMIT REGULATION

3 Part I

4 General

5 **9VAC25-32-10. Definitions.**

6 A. The following words and terms, when used in this chapter and in VPA permits issued  
7 under this chapter shall have the meanings defined in the State Water Control Law, unless the  
8 context clearly indicates otherwise and as follows:

9 "Active sewage sludge unit" means a sewage sludge unit that has not closed.

10 "Aerobic digestion" means the biochemical decomposition of organic matter in sewage  
11 sludge into carbon dioxide and water by microorganisms in the presence of air.

12 "Agricultural land" means land on which a food crop, a feed crop, or a fiber crop is grown.  
13 This includes range land and land used as pasture.

14 "Agronomic rate" means, in regard to biosolids, the whole sludge application rate (dry weight  
15 basis) designed: (i) to provide the amount of nitrogen needed by the food crop, feed crop, fiber  
16 crop, cover crop, or vegetation grown on the land and (ii) to minimize the amount of nitrogen in  
17 the biosolids that passes below the root zone of the crop or vegetation grown on the land to the  
18 groundwater.

19 "Anaerobic digestion" means the biochemical decomposition of organic matter in sewage  
20 sludge or biosolids into methane gas and carbon dioxide by microorganisms in the absence of  
21 air.

22 "Annual pollutant loading rate" or "APLR" means the maximum amount of a pollutant that  
23 can be applied to a unit area of land during a 365-day period.

1 "Annual whole sludge application rate" or "AWSAR" means the maximum amount of  
2 biosolids (dry weight basis) that can be applied to a unit area of land during a 365-day period.

3 "Apply biosolids" or "biosolids applied to the land" means land application of biosolids.

4 "Best Management Practices (BMP)" means a schedule of activities, prohibition of practices,  
5 maintenance procedures and other management practices to prevent or reduce the pollution of  
6 state waters. BMP's include treatment requirements, operating and maintenance procedures,  
7 schedule of activities, prohibition of activities, and other management practices to control plant  
8 site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw material storage.

9 "Biosolids" means a sewage sludge that has received an established treatment and is  
10 managed in a manner to meet the required pathogen control and vector attraction reduction,  
11 and contains concentrations of regulated pollutants below the ceiling limits established in 40  
12 CFR Part 503 and 9VAC25-32-356, such that it meets the standards established for use of  
13 biosolids for land application, marketing, or distribution in accordance with this regulation. Liquid  
14 biosolids contains less than 15% dry residue by weight. Dewatered biosolids contains 15% or  
15 more dry residue by weight.

16 "Board" means the Virginia State Water Control Board or State Water Control Board.

17 "Bulk biosolids" means biosolids that are not sold or given away in a bag or other container  
18 for application to the land.

19 "Bypass" means intentional diversion of waste streams from any portion of a treatment  
20 works.

21 "Concentrated confined animal feeding operation" means an animal feeding operation at  
22 which:

- 23 1. At least the following number and types of animals are confined:  
24 a. 300 slaughter and feeder cattle;

- 1           b. 200 mature dairy cattle (whether milked or dry cows);
- 2           c. 750 swine each weighing over 25 kilograms (approximately 55 pounds);
- 3           d. 150 horses;
- 4           e. 3,000 sheep or lambs;
- 5           f. 16,500 turkeys;
- 6           g. 30,000 laying hens or broilers; or
- 7           h. 300 animal units; and

8           2. Treatment works are required to store wastewater, or otherwise prevent a point  
9           source discharge of wastewater pollutants to state waters from the animal feeding  
10          operation except in the case of a storm event greater than the 25-year, 24-hour storm.

11          "Confined animal feeding operation" means a lot or facility together with any associated  
12          treatment works where the following conditions are met:

- 13           1. Animals have been, are, or will be stabled or confined and fed or maintained for a total  
14           of 45 days or more in any 12-month period; and
- 15           2. Crops, vegetation forage growth, or post-harvest residues are not sustained over any  
16           portion of the operation of the lot or facility.

17          "Critical areas" and "critical waters" mean areas and waters in proximity to shellfish waters,  
18          a public water supply, or recreation or other waters where health or water quality concerns are  
19          identified by the Department of Health.

20          "Cumulative pollutant loading rate" means the maximum amount of an inorganic pollutant  
21          that can be applied to an area of land.

22          "Density of microorganisms" means the number of microorganisms per unit mass of total  
23          solids (dry weight) in the sewage sludge.

24          "Department" means the Department of Environmental Quality.

1 "Director" means the Director of the Department of Environmental Quality, or an authorized  
2 representative.

3 "Discharge" means, when used without qualification, a discharge of a pollutant.

4 "Discharge of a pollutant" means any addition of any pollutant or combination of pollutants to  
5 state waters or waters of the contiguous zone or ocean other than discharge from a vessel or  
6 other floating craft when being used as a means of transportation.

7 "Domestic septage" means either liquid or solid material removed from a septic tank,  
8 cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that  
9 receives only domestic sewage. Domestic septage does not include liquid or solid material  
10 removed from a septic tank, cesspool, or similar treatment works that receives either  
11 commercial wastewater or industrial wastewater and does not include grease removed from a  
12 grease trap at a restaurant.

13 "Domestic sewage" means waste and wastewater from humans or household operations  
14 that is discharged to or otherwise enters a treatment works.

15 "Draft VPA permit" means a document indicating the board's tentative decision to issue,  
16 deny, modify, revoke and reissue, terminate or reissue a VPA permit. A notice of intent to  
17 terminate a VPA permit and a notice of intent to deny a VPA permit are types of draft VPA  
18 permits. A denial of a request for modification, revocation and reissuance or termination is not a  
19 draft VPA permit.

20 "Dry tons" means dry weight established as representative of land applied biosolids or  
21 industrial residuals and expressed in units of English tons.

22 "Dry weight" means the measured weight of a sample of sewage sludge ~~or~~, biosolids, or  
23 industrial residuals after all moisture has been removed in accordance with the standard  
24 methods of testing and often represented as percent solids.

1 "Dry weight basis" means calculated on the basis of having been dried at 105°C until  
2 reaching a constant mass (i.e., essentially 100% solids content).

3 "Exceptional quality biosolids" means biosolids that have received an established level of  
4 treatment for pathogen control and vector attraction reduction and contain known levels of  
5 pollutants, such that they may be marketed or distributed for public use in accordance with this  
6 regulation.

7 "Facilities" means, in regard to biosolids, processes, equipment, storage devices and  
8 dedicated sites, located or operated separately from a treatment works, utilized for sewage  
9 sludge management including, but not limited to, handling, treatment, transport, and storage of  
10 biosolids.

11 "Feed crops" means crops produced primarily for consumption by animals.

12 "Fiber crops" means crops produced primarily for the manufacture of textiles, such as flax  
13 and cotton.

14 "Field" means an area of land within a site where land application is proposed or permitted.

15 "Food crops" means crops produced primarily for consumption by humans. These include,  
16 but are not limited to, fruits, vegetables, and tobacco.

17 "Forest" means a tract of land thick with trees and underbrush.

18 "General VPA permit" means a VPA permit issued by the board authorizing a category of  
19 pollutant management activities.

20 "Generator" means the owner of a sewage treatment works that produces sewage sludge  
21 and biosolids.

22 "Groundwater" means water below the land surface in the saturated zone.

1        "Industrial residual" means solid or semi-solid industrial waste including solids, residues, and  
2 precipitates separated or created by the unit processes of a device or system used to treat  
3 industrial wastes.

4        "Industrial wastes" means liquid or other wastes resulting from any process of industry,  
5 manufacture, trade, or business, or from the development of any natural resources.

6        "Land application" means, in regard to sewage, biosolids and industrial residuals, the  
7 distribution of ~~either~~-treated wastewater, referred to as "effluent," ~~or~~-stabilized sewage sludge,  
8 referred to as "biosolids," or industrial residuals by spreading or spraying on the surface of the  
9 land, injecting below the surface of the land, or incorporating into the soil with a uniform  
10 application rate for the purpose of fertilizing ~~the~~-crops and/or vegetation or conditioning the soil.  
11 Sites approved for land application of biosolids in accordance with this regulation are not to be  
12 considered to be treatment works. Bulk disposal of stabilized sludge or industrial residuals in a  
13 confined area, such as in landfills, is not land application. For the purpose of this regulation, the  
14 use of biosolids in agricultural research and the distribution and marketing of exceptional quality  
15 biosolids are not land application.

16        "Land application area" means, in regard to biosolids, the area in the permitted field,  
17 excluding the setback areas, where biosolids may be applied.

18        "Land applier" means someone who land applies biosolids or industrial residuals pursuant to  
19 a valid permit from the department as set forth in this regulation.

20        "Land with a high potential for public exposure" means land that the public uses frequently.  
21 This includes, but is not limited to, a public contact site and a reclamation site located in a  
22 populated area (e.g., a construction site located in a city).

23        "Land with a low potential for public exposure" means land that the public uses infrequently.  
24 This includes, but is not limited to, agricultural land, forest, and a reclamation site located in an  
25 unpopulated area (e.g., a strip mine located in a rural area).

1 "Limitation" means any restriction imposed on quantities, rates or concentration of pollutants  
2 which are managed by pollutant management activities.

3 "Liner" means soil or synthetic material that has a hydraulic conductivity of  $1 \times 10^{-7}$   
4 centimeters per second or less.

5 "Local monitor" means a person or persons employed by a local government to perform the  
6 duties of monitoring the operations of land appliers pursuant to a local ordinance.

7 "Local ordinance" means an ordinance adopted by counties, cities, or towns in accordance  
8 with § [62.1-44.16](#) or 62.1-44.19:3 of the Code of Virginia.

9 "Malodor" means an unusually strong or offensive odor associated with biosolids or sewage  
10 sludge as distinguished from odors commonly associated with biosolids or sewage sludge.

11 "Monitoring report" means forms supplied by the department for use in reporting of self-  
12 monitoring results of the permittee.

13 "Monthly average" means the arithmetic mean of all measurements taken during the month.

14 "Municipality" means a city, county, town, district association, or other public body (including  
15 an intermunicipal agency of two or more of the foregoing entities) created by or under state law;  
16 an Indian tribe or an authorized Indian tribal organization having jurisdiction over sewage sludge  
17 or biosolids management; or a designated and approved management agency under § 208 of  
18 the federal Clean Water Act, as amended. The definition includes a special district created  
19 under state law, such as a water district, sewer district, sanitary district, utility district, drainage  
20 district, or similar entity; or an integrated waste management facility as defined in § 201(e) of the  
21 federal Clean Water Act, as amended, that has as one of its principal responsibilities the  
22 treatment, transport, use, or disposal of sewage sludge or biosolids.

23 "Nonpoint source" means a source of pollution, such as a farm or forest land runoff, urban  
24 storm water runoff or mine runoff that is not collected or discharged as a point source.

1 "Odor sensitive receptor" means, in the context of land application of biosolids, any health  
2 care facility, such as hospitals, convalescent homes, etc. or a building or outdoor facility  
3 regularly used to host or serve large groups of people such as schools, dormitories, or athletic  
4 and other recreational facilities.

5 "Operate" means the act of any person who may have an impact on either the finished water  
6 quality at a waterworks or the final effluent at a sewage treatment works, such as to (i) place  
7 into or take out of service a unit process or unit processes, (ii) make or cause adjustments in the  
8 operation of a unit process or unit processes at a treatment works, or (iii) manage sewage  
9 sludge or biosolids.

10 "Operator" means any individual employed or appointed by any owner, and who is  
11 designated by such owner to be the person in responsible charge, such as a supervisor, a shift  
12 operator, or a substitute in charge, and whose duties include testing or evaluation to control  
13 waterworks or wastewater works operations. Not included in this definition are superintendents  
14 or directors of public works, city engineers, or other municipal or industrial officials whose duties  
15 do not include the actual operation or direct supervision of waterworks or wastewater works.

16 "Other container" means either an open or closed receptacle. This includes, but is not  
17 limited to, a bucket, a box, a carton, and a vehicle or trailer with a load capacity of one metric  
18 ton or less.

19 "Overflow" means the unintentional discharge of wastes from any portion of a treatment  
20 works.

21 "Owner" means the Commonwealth or any of its political subdivisions including sanitary  
22 districts, sanitation district commissions and authorities; federal agencies; any individual; any  
23 group of individuals acting individually or as a group; or any public or private institution,  
24 corporation, company, partnership, firm, or association that owns or proposes to own a  
25 sewerage system or treatment works as defined in § 62.1-44.3 of the Code of Virginia.

1 "Pasture" means land on which animals feed directly on feed crops such as legumes,  
2 grasses, grain stubble, or stover.

3 "Pathogenic organisms" means disease-causing organisms. These include, but are not  
4 limited to, certain bacteria, protozoa, viruses, and viable helminth ova.

5 "Permittee" means an owner or operator who has a currently effective VPA permit issued by  
6 the board or the department.

7 "Person who prepares biosolids" means either the person who generates biosolids during  
8 the treatment of domestic sewage in a treatment works or the person who derives the material  
9 from sewage sludge.

10 "pH" means the logarithm of the reciprocal of the hydrogen ion concentration measured at  
11 25°C or measured at another temperature and then converted to an equivalent value at 25°C.

12 "Place sewage sludge" or "sewage sludge placed" means disposal of sewage sludge on a  
13 surface disposal site.

14 "Point source" means any discernible, defined and discrete conveyance, including but not  
15 limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock,  
16 vessel or other floating craft, from which pollutants are or may be discharged. This term does  
17 not include return flows from irrigated agricultural land.

18 "Pollutant" means, in regard to wastewater, any substance, radioactive material, or heat  
19 which causes or contributes to, or may cause or contribute to, pollution. It does not mean (i)  
20 sewage from vessels; or (ii) water, gas, or other material which is injected into a well to facilitate  
21 production of oil or gas, or water derived in association with oil or gas production and disposed  
22 of in a well, if the well is used either to facilitate production or for disposal purposes if approved  
23 by Department of Mines Minerals and Energy unless the board determines that such injection or  
24 disposal will result in the degradation of ground or surface water resources.

1 "Pollutant" means, in regard to sewage sludge or biosolids, an organic substance, an  
2 inorganic substance, a combination of organic and inorganic substances, or a pathogenic  
3 organism that, after discharge and upon exposure, ingestion, inhalation, or assimilation into an  
4 organism either directly from the environment or indirectly by ingestion through the food chain,  
5 could, on the basis of information available to the board, cause death, disease, behavioral  
6 abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunction in  
7 reproduction), or physical deformations in either organisms or offspring of the organisms.

8 "Pollutant limit" means a numerical value that describes the amount of a pollutant allowed  
9 per unit amount of biosolids (e.g., milligrams per kilogram of total solids), the amount of a  
10 pollutant that can be applied to a unit area of land (e.g., kilograms per hectare), or the volume of  
11 a material that can be applied to a unit area of land (e.g., gallons per acre).

12 "Pollutant management activity" means a treatment works with a potential or actual  
13 discharge to state waters, but which does not have a point source discharge to surface waters.

14 "Pollution" means such alteration of the physical, chemical, or biological properties of any  
15 state waters or soil as will, or is likely to, create a nuisance or render such waters or soil: (i)  
16 harmful or detrimental or injurious to the public health, safety, or welfare or to the health of  
17 animals, fish, or aquatic life; (ii) unsuitable despite reasonable treatment for use as present or  
18 possible future sources of public water supply; or (iii) unsuitable for recreational, commercial,  
19 industrial, agricultural, or other reasonable uses. Such alteration is also deemed to be pollution,  
20 if there occurs: (a) an alteration of the physical, chemical, or biological property of state waters  
21 or soil, or a discharge or a deposit of sewage, industrial wastes, or other wastes to state waters  
22 or soil by any owner which by itself is not sufficient to cause pollution, but which, in combination  
23 with such alteration of, or discharge, or deposit, to state waters or soil by other owners, is  
24 sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state

1 waters or soil; or (c) the contravention of standards of air or water quality duly established by the  
2 board.

3 "Primary sludge" means sewage sludge removed from primary settling tanks that is readily  
4 thickened by gravity thickeners.

5 "Privately owned treatment works (PVOTW)" means any sewage treatment works not  
6 publicly owned.

7 "Process" means a system, or an arrangement of equipment or other devices that remove  
8 from waste materials pollutants including, but not limited to, a treatment works or portions  
9 thereof.

10 "Public contact site" means land with a high potential for contact by the public. This includes,  
11 but is not limited to, public parks, ball fields, cemeteries, and golf courses.

12 "Publicly owned treatment works (POTW)" means any sewage treatment works that is  
13 owned by a state or municipality. Sewers, pipes, or other conveyances are included in this  
14 definition only if they convey wastewater to a POTW providing treatment.

15 "Public hearing" means a fact-finding proceeding held to afford interested persons an  
16 opportunity to submit factual data, views, and arguments to the board.

17 "Reclamation site" means drastically disturbed land that is reclaimed using biosolids. This  
18 includes, but is not limited to, strip mines and construction sites.

19 ~~"Reimbursement application" means forms approved by the department to be used to apply~~  
20 ~~for reimbursement of local monitoring costs for land application of biosolids in accordance with a~~  
21 ~~local ordinance.~~

22 "Run-off" means rainwater, leachate, or other liquid that drains overland on any part of a  
23 land surface and runs off of the land surface.

1 "Schedule of compliance" means a schedule of remedial measures including an enforceable  
2 sequence of actions or operations leading to compliance with the federal Clean Water Act (33  
3 USC 1251 et seq.), the law, and board regulations, standards and policies.

4 "Setback area" means the area of land between the boundary of the land application area  
5 and adjacent features where biosolids or other managed pollutants may not be land applied.

6 "Sewage" means the water-carried and nonwater-carried human excrement, kitchen,  
7 laundry, shower, bath, or lavatory wastes, separately or together with such underground,  
8 surface, storm, and other water and liquid industrial wastes as may be present from residences,  
9 buildings, vehicles, industrial establishments, or other places.

10 "Sewage sludge" means any solid, semisolid, or liquid residue generated during the  
11 treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited  
12 to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater  
13 treatment processes; and a material derived from sewage sludge. Sewage sludge does not  
14 include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit  
15 and screenings generated during preliminary treatment of domestic sewage in a treatment  
16 works.

17 "Sewage sludge unit" means land on which only sewage sludge is placed for final disposal.  
18 This does not include land on which sewage sludge is either stored or treated. Land does not  
19 include surface waters.

20 "Sewage sludge use or disposal" means the collection, storage, treatment, transportation,  
21 processing, monitoring, use, or disposal of sewage sludge.

22 "Site" means the area of land within a defined boundary where an activity is proposed or  
23 permitted.

24 "Sludge" means solids, residues, and precipitates separated from or created by the unit  
25 processes of a treatment works.

1 "Sludge management" means the treatment, handling, transportation, storage, use,  
2 distribution, or disposal of sewage sludge.

3 "Specific oxygen uptake rate" or "SOUR" means the mass of oxygen consumed per unit  
4 time per mass of total solids (dry weight basis) in the sewage sludge.

5 "State waters" means all water on the surface or under the ground wholly or partially within  
6 or bordering the state or within its jurisdiction.

7 "State Water Control Law (law)" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the  
8 Code of Virginia.

9 "Store sewage sludge" or "storage of sewage sludge" means the placement of sewage  
10 sludge on land on which the sewage sludge remains for two years or less. This does not include  
11 the placement of sewage sludge on land for treatment.

12 "Substantial compliance" means designs and practices that do not exactly conform to the  
13 standards set forth in this chapter as contained in documents submitted pursuant to 9VAC25-  
14 32-340, but whose construction or implementation will not substantially affect health  
15 considerations or performance.

16 "Supernatant" means a liquid obtained from separation of suspended matter during sludge  
17 treatment or storage.

18 "Surface disposal site" means an area of land that contains one or more active sewage  
19 sludge units.

20 "Surface water" means:

21 1. All waters which are currently used, were used in the past, or may be susceptible to  
22 use in interstate or foreign commerce, including all waters which are subject to the ebb  
23 and flow of the tide;

24 2. All interstate waters, including interstate "wetlands";

1 3. All other waters such as inter/intrastate lakes, rivers, streams (including intermittent  
2 streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa  
3 lakes, or natural ponds the use, degradation, or destruction of which would affect or  
4 could affect interstate or foreign commerce including any such waters:

5 a. Which are or could be used by interstate or foreign travelers for recreational or  
6 other purposes;

7 b. From which fish or shellfish are or could be taken and sold in interstate or foreign  
8 commerce; or

9 c. Which are used or could be used for industrial purposes by industries in interstate  
10 commerce;

11 4. All impoundments of waters otherwise defined as surface waters of the United States  
12 under this definition;

13 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

14 6. The territorial sea; and

15 7. "Wetlands" adjacent to waters, other than waters that are themselves wetlands,  
16 identified in subdivisions 1 through 6 of this definition.

17 "Total solids" means the materials in sewage sludge that remain as residue when the  
18 sewage sludge is dried to 103°C to 105°C.

19 "Toxic pollutant" means any pollutant listed as toxic under § 307 (a)(1) of the CWA or, in the  
20 case of "sludge use or disposal practices," any pollutant identified in regulations implementing §  
21 405 (d) of the CWA.

22 "Toxicity" means the inherent potential or capacity of a material to cause adverse effects in a  
23 living organism, including acute or chronic effects to aquatic life, detrimental effects on human  
24 health, or other adverse environmental effects.

1 "Treatment facility" means only those mechanical power driven devices necessary for the  
2 transmission and treatment of pollutants (e.g., pump stations, unit treatment processes).

3 "Treat sewage sludge" or "treatment of sewage sludge" means the preparation of sewage  
4 sludge for final use or disposal. This includes, but is not limited to, thickening, stabilization, and  
5 dewatering of sewage sludge. This does not include storage of sewage sludge.

6 "Treatment works" means either a federally owned, publicly owned, or privately owned  
7 device or system used to treat (including recycle and reclaim) either domestic sewage or a  
8 combination of domestic sewage and industrial waste of a liquid nature. Treatment works may  
9 include but are not limited to pumping, power, and other equipment and their appurtenances;  
10 septic tanks; and any works, including land, that are or will be (i) an integral part of the treatment  
11 process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment.  
12 "Treatment works" does not include biosolids use on privately owned agricultural land.

13 "Twenty-five-year, 24-hour storm event" means the maximum 24-hour precipitation event  
14 with a probable recurrence interval of once in 25 years as established by the National Weather  
15 Service or appropriate regional or state rainfall probability information.

16 "Unstabilized solids" means organic materials in sewage sludge that have not been treated  
17 in either an aerobic or anaerobic treatment process.

18 "Upset" means an exceptional incident in which there is unintentional and temporary  
19 noncompliance with technology-based permit limitations because of factors beyond the  
20 permittee's reasonable control. An upset does not include noncompliance caused by operational  
21 error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive  
22 maintenance, or careless or improper operation.

23 "Use" means to manage or recycle a processed waste product in a manner so as to derive a  
24 measurable benefit as a result of such management.

1 "Variance" means a conditional approval based on a waiver of specific regulations to a  
2 specific owner relative to a specific situation under documented conditions for a specified period  
3 of time.

4 "Vector attraction" means the characteristic of biosolids or sewage sludge that attracts  
5 rodents, flies, mosquitoes, or other organisms capable of transporting infectious agents.

6 "Vegetated buffer" means a permanent strip of dense perennial vegetation established  
7 parallel to the contours of and perpendicular to the dominant slope of the field for the purposes  
8 of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential  
9 nutrients or pollutants from leaving the field and reaching surface waters.

10 "Virginia Pollution Abatement (VPA) permit" means a document issued by the board,  
11 pursuant to this chapter, authorizing pollutant management activities under prescribed  
12 conditions.

13 "Virginia Pollutant Discharge Elimination System (VPDES) permit" means a document  
14 issued by the board pursuant to 9VAC25-31-10 et seq., authorizing, under prescribed  
15 conditions, the potential or actual discharge of pollutants from a point source to surface waters.

16 "Volatile solids" means the amount of the total solids in sewage sludge lost when the  
17 sewage sludge is combusted at 550°C in the presence of excess air.

18 "VPA application" means the standard form or forms approved by the board for applying for  
19 a VPA permit.

20 "Water quality standards" means the narrative statements for general requirements and  
21 numeric limits for specific requirements that describe the water quality necessary to meet and  
22 maintain reasonable and beneficial uses. Such standards are established by the board under §  
23 62.1-44.15 (3a) of the Code of Virginia.

24 B. Generally used technical terms not defined in subsection A of this section or the  
25 department's latest definitions of technical terms as used to implement § 62.1-44.15 of the Code

1 of Virginia shall be defined in accordance with "Glossary-Water and Wastewater Control  
2 Engineering" published by the American Public Health Association (APHA), American Society of  
3 Civil Engineers (ASCE), American Water Works Association (AWWA), and the Water  
4 Environment Federation (WEF).

5 Statutory Authority

6 § 62.1-44.15 of the Code of Virginia.

7 Historical Notes

8 Derived from Virginia Register Volume 12, Issue 20, eff. July 24, 1996; amended, Virginia  
9 Register Volume 29, Issue 24, eff. September 1, 2013.

10 **9VAC25-32-285. Local Enforcement.**

11 A. In the event of a dispute concerning the existence of a violation between a permittee and  
12 a locality that has adopted a local ordinance for testing and monitoring of the land application of  
13 biosolids ~~or industrial residuals~~, the activity alleged to be in violation shall be halted pending a  
14 determination by the director.

15 B. Upon determination by the director that there has been a violation of § ~~62.1-44.16~~, 62.1-  
16 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  
17 promulgated under those sections, ~~or of any permit or certificate issued for land application of~~  
18 ~~industrial residuals~~, and that such violation poses an imminent threat to public health, safety or  
19 welfare, the department shall commence appropriate action to abate the violation and  
20 immediately notify the chief administrative officer of any locality potentially affected by the  
21 violation.

22 C. Local governments shall promptly notify the department of all results from the testing and  
23 monitoring of the land application of biosolids ~~or industrial residuals~~ performed by persons  
24 employed by local governments and any violation of § ~~62.1-44.16~~, 62.1-44.19:3, 62.1-44.19:3.1,

1 or 62.1-44.19:3.3 of the Code of Virginia ~~or of any permit or certificate issued for land~~  
2 ~~application of industrial residuals discovered by local governments.~~

3 D. Local governments receiving complaints concerning land application of biosolids ~~or~~  
4 ~~industrial residuals~~ shall notify the department and the permit holder within 24 hours of receiving  
5 ~~the complaint.~~

6 Statutory Authority

7 § 62.1-44.15 of the Code of Virginia.

8 Historical Notes

9 Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia  
10 Register Volume 29, Issue 24, eff. September 1, 2013.

11

12 **~~9VAC25-32-320. Local enforcement of the regulation. (Repealed.)~~**

13 ~~A. In the event of a dispute concerning the existence of a violation between a permittee and~~  
14 ~~a locality that has adopted a local ordinance for testing and monitoring of the land application of~~  
15 ~~biosolids, the activity alleged to be in violation shall be halted pending a determination by the~~  
16 ~~director.~~

17 ~~B. Upon determination by the director that there has been a violation of § 62.1-44.19:3,~~  
18 ~~62.1-44.19:3.1 or 62.1-44.19:3.3 of the Code of Virginia, or of any regulation promulgated under~~  
19 ~~those sections, and that such violation poses an imminent threat to public health, safety or~~  
20 ~~welfare, the department shall commence appropriate action to abate the violation and~~  
21 ~~immediately notify the chief administrative officer of any locality potentially affected by the~~  
22 ~~violation.~~

23 ~~C. Local governments shall promptly notify the department of all results from the testing and~~  
24 ~~monitoring of the land application of biosolids performed by persons employed by local~~

1 ~~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~~  
2 ~~of Virginia.~~

3 ~~D. Local governments receiving complaints concerning land application of biosolids shall~~  
4 ~~notify the department and the permit holder within 24 hours of receiving the complaint.~~

5 ~~Statutory Authority~~

6 ~~§ 62.1-44.15 of the Code of Virginia.~~

7 ~~Historical Notes~~

8 ~~Derived from Virginia Register Volume 24, Issue 6, eff. January 1, 2008; amended, Virginia~~

9 ~~Register Volume 29, Issue 24, eff. September 1, 2013.~~