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3 **DRAFT AMENDMENTS TO THE**  
4 **BIOSOLIDS USE REGULATIONS (12 VAC 5-585)**  
5 **PETITION FOR RULEMAKING**

6 **RE: FINANCIAL RESPONSIBILITY, NOTICE, COMPLAINT RESPONSE, SIGNAGE, SPILL**  
7 **RESPONSE**  
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10 12VAC 5-585-310. Additional monitoring, reporting and recording requirements for land  
11 application.

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13 A. Either the Operation and Maintenance Manual, sludge management plan, or operating  
14 plan, shall contain a schedule of the required minimum tests necessary to monitor land  
15 application operations. Such testing schedule information for land application of  
16 biosolids shall contain instructions for recording and reporting. Monitoring of any  
17 associated land treatment systems shall be in accordance with the biosolids use Operation  
18 and Maintenance Manual if provided.

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20 B. The permit holder shall provide to the Department of Health and to each locality in  
21 which it is permitted to land apply biosolids, written evidence of financial responsibility,  
22 including both current liability and pollution insurance, or such other evidence of  
23 financial responsibility as the Board may establish by regulation, in an amount not less  
24 than \$1,000,000 per occurrence, which shall be available to pay claims for cleanup costs,  
25 personal injury, bodily injury and property damage resulting from the transport, storage  
26 and land application of biosolids in Virginia. The aggregate amount of financial liability  
27 maintained by the permit holder shall be \$1,000,000 for companies with less than  
28 \$5,000,000 in annual gross revenue and shall be \$2,000,000 for companies with  
29 \$5,000,000 or more in annual gross revenue.

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31 C. Evidence of financial responsibility, which may include liability insurance, meeting  
32 the requirements herein shall be maintained by the permit holder at all times that it is  
33 authorized to transport, store or land apply biosolids in Virginia. The permit holder shall  
34 immediately notify the Department of Health in the event of any lapse or cancellation of  
35 such financial resources, including insurance coverage, as required by this section.

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37 12 VAC 5-585-460. General.

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39 A. Sections 12 VAC 5-585-460 through VAC 5-585-500 provide minimum criteria  
40 which will be used for reviewing sludge management plans and operating plans. Each  
41 plan shall address site specific management practices involving use of biosolids. Final  
42 disposition of sludge may involve use or disposal. For the purpose of 12 VAC 5-585-460  
43 through 12 VAC 5-585-500, “use” shall include resource recovery, recycling or deriving  
44 beneficial use from the material. “Disposal” shall involve the final disposition of a waste  
45 material without resource recover, recycling or deriving beneficial use from the material.  
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1 B. All practical use options should be evaluated before disposal options are evaluated or  
2 selected. Biosolids use practices include land application for agricultural, nonagricultural  
3 and silvicultural use and the distribution and marketing of exceptional quality biosolids.  
4 Sludge disposal methods include incineration, landfill codisposal, surface disposal, and  
5 other dedicated disposal practices, such as burial on dedicated disposal sites.  
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7 C. Water quality protection and monitoring provisions shall be included in all sludge  
8 management plans and operating plans, except for those land application practices  
9 designed for limited loadings (amounts per area per time period) within defined field  
10 areas in agricultural use. Groundwater monitoring requirements shall be evaluated by the  
11 commissioner for annual application of biosolids to specific sites, reclamation of  
12 disturbed and marginal land and application to forest land (silviculture). Submittal of site  
13 specific (soils and other) information for each identified separate field area shall be  
14 required for issuance of permits (12 VAC 5-585-130). For information regarding  
15 handling and disposal of septage, refer to the Sewage Handling and Disposal Regulations;  
16 (12 VAC 5-610-10 et seq). Septage treated and managed in accordance with standards  
17 contained in this chapter is defined as either sewage sludge or biosolids as appropriate.  
18

19 D. Conformance of biosolids use to local land use zoning and planning should be  
20 resolved between the local government and the permit applicant. The permit applicant  
21 shall attempt to notify land owners of property within 200 feet and 1,000 feet of the  
22 boundaries of sites proposed for frequent use and dedicated sites, respectively, and  
23 furnish the division and the Chief Executive Officer, or designee for the local  
24 government, where the site is located, with acceptable documentation of such  
25 notifications (i.e., intent to land-apply biosolids on the proposed locations). Relevant  
26 concerns of adjacent landowners will be considered in the evaluation of site suitability.  
27

28 E. The requirements for processing approvals of sludge management plans and  
29 operational plans are included in 12 VAC 5-585-140 H as well as: (i) requirements for  
30 notification of applications, hearings and meetings, (ii) minimum information required  
31 for completion of a sludge management plan for land application (Part IV, 12 VAC 5-  
32 585-620 et seq.).  
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34 F. At least 15 days prior to commencing land application of biosolids at a permitted site,  
35 the permit holder shall deliver or cause to be delivered, written notification that is  
36 substantially in compliance with this section, to the Chief Executive Officer, or designee  
37 for the local government, where the site is located. If the site is located in more than one  
38 County, the information shall be provided to all jurisdictions where the site is located.  
39 Sufficiency of such notices shall be determined by the Division.  
40

41 G. The notification required by this section shall include the following:  
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- 43 1. The name, address and telephone number of the permit holder, including the  
44 name of a representative knowledgeable of the permit;
- 45 2. Identification, by tax map number and farm service agency (FSA) farm tract  
46 number, of parcels on which land application is to take place;

- 1           3. A map indicating haul routes to each site where land application is to take  
2           place.
- 3           4. The name or title, and telephone number of at least one individual designated  
4           by the permit holder to respond to questions and complaints related to the land  
5           application project;
- 6           5. The approximate dates on which land application is to begin and end at the  
7           site;
- 8           6. The name and telephone number of the person or persons at the Virginia  
9           Department of Health to be contacted in connection with the permit;
- 10          7. The name, address, and telephone number of the wastewater treatment  
11          facility, or facilities, from which the biosolids will originate, including the  
12          name, or title, of a representative of the treatment facility that is  
13          knowledgeable about the land application operation.

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15          H. The permit holder, shall, within 24 hours of receiving notification of a complaint,  
16          commence investigation of said complaint. The permit holder shall confirm receipt of a  
17          complaint by phone, e-mail or facsimile to the Division, the Chief Executive Officer or  
18          designee for the local government, and the owner of the treatment facility from which the  
19          biosolids originated, within 24 hours, after receiving the complaint. Complaints and  
20          responses thereto shall be documented by the permit holder and submitted with monthly  
21          land application reports to VDH and copied to the Chief Executive Officer, or designee  
22          for the local government, and the owner of the treatment facility from which the biosolids  
23          originated.

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25          12 VAC 5-585-480. Land acquisition and management control.

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27          A. When land application of sludge is proposed, the continued availability of the land  
28          and protection from improper concurrent use during the utilization period shall be  
29          assured. A written agreement shall be established between the landowner and owner,  
30          with the information specified in Table A-1. The responsibility for obtaining and  
31          maintaining the agreements lies with the party who is the holder of the permit. Site  
32          management controls shall include ~~for~~ access limitations relative to the level of pathogen  
33          control achieved during treatment. In addition, agricultural use of sludge in accordance  
34          with this chapter ~~will~~ is not to result in harm to threatened or endangered species of plant,  
35          fish, or wildlife, ~~not~~ nor result in the destruction or adverse modification of the critical  
36          habitat of a threatened or endangered species. Site specific information shall be provided  
37          as part of the management or operating plan.

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39          B. At least forty-eight (48) hours prior to delivery of biosolids for land application on  
40          any site permitted under this chapter, the permit holder shall post a sign at the site that  
41          substantially complies with this section, is visible and legible from the public right-of-  
42          way and conforms to the specifications herein. If the site is not located adjacent to a  
43          public right of way, the sign shall be posted at or near the intersection of the public right  
44          of way and the main site access road or driveway to the site. The Department may grant  
45          a waiver to this or any other requirement, or require alternative posting options due to

1 extenuating circumstances. The sign shall remain in place for at least forty-eight (48)  
2 hours after land application has been completed at the site.

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4 C. The sign shall be made of weather-resistant materials and shall be sturdily mounted,  
5 so as to be capable of remaining in place and legible throughout the period that the sign is  
6 required at the site. Signs required by this section shall be temporary, non-illuminated,  
7 four (4) square feet or more in area and shall only contain the following information:

- 8  
9  
10 1. A statement that biosolids are being land-applied at the site;  
11 2. The name and telephone number of the permit holder as well as the name, or  
12 title, and telephone number of an individual designated by the permit holder to  
13 respond to complaints and inquiries;  
14 3. Contact information for the Virginia Department of Health, including a  
15 telephone number for complaints and inquiries.

16  
17 D. The permit holder shall promptly replace or repair any sign that has been removed  
18 from a land application site prior to forty-eight (48) hours after completion of land  
19 application or that has been damaged so as to render any of its required information  
20 illegible.

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22 12 VAC 5-585-490. Transport

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24 A. Transport routes should follow primary highways, should avoid residential areas  
25 when possible, and should comply with all Virginia Department of Transportation  
26 requirements and standards. Transport vehicles shall be sufficiently sealed to prevent  
27 leakage and spillage of sludge. For sludges with a solids content of less than 15%, totally  
28 closed watertight transport vehicles with rigid tops shall be provided to prevent spillage  
29 unless adequate justification is provided to demonstrate that such controls are  
30 unnecessary. The commissioner may also require certain dewatered sludges exceeding  
31 15% solids content to be handled as liquid sludges. The minimum information for sludge  
32 transport which shall be supplied in the sludge management plan is listed in Part IV (12  
33 VAC5-585-620 et seq.).

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35 B. The permit holder shall be responsible for the prompt cleanup and removal of  
36 biosolids spilled during transport to the land application site or to or from a storage  
37 facility. The Operations Manual shall include a plan for the prevention of spills during  
38 transport and for the cleanup and removal of spills. The permit holder shall ensure that  
39 its personnel, subcontractors or the drivers of vehicles transporting biosolids for land  
40 application shall be properly trained in procedures for spill removal and cleanup.

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42 C. The permit holder shall take appropriate steps to prevent drag-out and track-out of dirt  
43 and debris or biosolids from land application sites onto public roads. Where material is  
44 transported onto a paved or public road surface, the road surface shall be cleaned  
45 thoroughly as soon as practicable, but no later than the end of each day.

1 D. The permit holder shall promptly report offsite spills to the Virginia Department of  
2 Health, the Chief Executive Officer, or designee for the local government and the owner  
3 of the facility generating the biosolids. The report shall be made verbally as soon as  
4 possible, but no later than 24 hours after the discovery of the spill. After business hours  
5 notification may be provided by voice-mail, facsimile or e-mail.  
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7 E. A written report, which shall include a description of measures taken in response to  
8 the spill, shall be submitted by the permit holder to the Virginia Department of Health,  
9 the the Chief Executive Officer or designee for the local government and the owner of the  
10 facility generating the biosolids, within five (5) working days of the spill. The report  
11 may be sent by first class mail, facsimile or e-mail, or it may be hand-delivered.  
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