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Exempt Action: Final Regulation Agency Background Document

Agency name	State Water Control Board
Virginia Administrative Code (VAC) Chapter citation(s)	9VAC25-31 9VAC25-32
VAC Chapter title(s)	Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32)
Action title	Amendments to biosolids permit requirements in response to Chapter 280 of the 2025 Acts of Assembly
Final agency action date	June 30, 2025
Date this document prepared	May 16, 2025

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Chapter 280 of the 2025 Acts of Assembly (HB 2517) specifies that the permitting requirements of § 62.1-44.19:3 of the Code of Virginia shall not apply to any land application of sewage sludge for a research project when such land is owned and operated by an institution of higher education in the Commonwealth. The legislation specifies that 1) at least 30 days prior to commencing any land application of sewage sludge, the institution of higher education shall notify the Virginia Department of Environmental Quality (DEQ) and the owner of every adjoining property of its intent to land apply such sewage sludge; and 2) the institution of higher education shall comply with setback and recordkeeping

requirements as outlined in the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25 32). The legislation also specifies that the provisions of the act shall expire on July 1, 2030.

The Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and the VPA Permit Regulation (9VAC25-32) contain the requirements for treated sewage sludge that is managed in a manner to meet the required pathogen control and vector attraction reduction, and contains concentrations of regulated pollutants below the ceiling limits established in 40 CFR Part 503 and state regulations, such that it meets the standards established for use for land application, marketing, or distribution. The treated sewage sludge is known as “biosolids” and only biosolids may be land-applied in Virginia. This regulatory action amends the requirements for institutions of higher education in both the VPDES and VPA permit regulations to land apply biosolids for a research project so that they are consistent with the change to state law.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Chapter 280 of the 2025 Acts of Assembly (HB 2517) specifies that the permitting requirements of § 62.1-44.19:3 of the Code of Virginia shall not apply to any land application of sewage sludge for a research project when such land is owned and operated by an institution of higher education in the Commonwealth. The legislation specifies that 1) at least 30 days prior to commencing any land application of sewage sludge, the institution of higher education shall notify DEQ and the owner of every adjoining property of its intent to land apply such sewage sludge; and 2) the institution of higher education shall comply with setback and recordkeeping requirements as outlined in the VPA Permit Regulation (9VAC25 32). The legislation also specifies that the provisions of the act shall expire on July 1, 2030.

This regulation amendment is exempt from the state administrative procedures for adoption of regulations contained in Article 2 of the Administrative Process Act by the provisions of § 2.2-4006 A 4 a of the Code of Virginia because it is necessary to conform to changes in Virginia statutory law where no agency discretion is involved. These amendments must be submitted to the Virginia Register for publication within 90 days of the effective date of the Act.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has “adopted final amendments” to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, “On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)].”

On June 30, 2025, the State Water Control Board took final action to amend the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9VAC25-31) and the Virginia Pollution Abatement (VPA) Permit Regulation (9VAC25-32) relating to permitting requirements for land application of biosolids for a research project by an institute of higher education. The regulatory action is to be effective as provided in the Administrative Process Act.

In adopting these amendments, the State Water Control Board affirmed that it will receive, consider and respond to petitions by any person at any time with respect to reconsideration or revision, as provided in § 2.2-4006 B of the Administrative Process Act.