


COMMONWEALTH OF VIRGINIA

Department of Environmental Quality Division of Water Permitting

Subject: Guidance Memo No. 92-006, Addendum No. 7
Certifications for Tax Exemptions

To: Regional Directors, Deputy Regional Directors, Regional Water Permit Managers

From: Melanie D. Davenport, Director 

Date: November 18, 2019

Copies: James Golden, Jeff Steers, Drew Hammond, Allan Brockenbrough, Emilee Adamson, Curt Linderman

Summary:

The following addendum serves to clarify and revise certain provisions relating to the processing of tax exemption certification requests for pollution control equipment and facilities under existing Guidance Memo No. 92-006, which provides information regarding certifications for water related equipment. The changes are as follows: while equipment and materials used primarily for the control or abatement of pollution are considered eligible for tax exemption, other materials needed, such as sidewalks and pavement, are not. Chemicals used for the control or abatement of pollution are not eligible for tax exemptions. Equipment and materials, facilities or devices used primarily for the control or abatement of pollution will not be eligible for tax exemption until they have been constructed, reconstructed, erected or acquired. The percentage of use of equipment shall no longer be used to determine eligibility for tax exemption. Sewerage systems or sewage collection systems are considered eligible for tax exemptions. This addendum in no way repeals Guidance Memo No. 92-006.

Electronic Copy:

Once effective, an electronic copy of this guidance will be available on:

- The Virginia Regulatory Town Hall under the Department of Environmental Quality (<http://www.townhall.virginia.gov/L/gdocs.cfm?agencynumber=440>);
- The Department's website at <http://www.deq.virginia.gov/waterguidance/>.

Contact Information:

Please contact Andrew Hammond at (804) 698-4101 or Andrew.Hammond@deq.virginia.gov with any questions regarding the application of this guidance.

Certification:

As required by Subsection B of § [2.2-4002.1](#) of the APA, the agency certifies that this guidance document conforms to the definition of a guidance document in § [2.2-4101](#) of the Code of Virginia.

Disclaimer:

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

BACKGROUND

Va. Code § 58.1-3660 defines certified pollution control equipment and facilities as “any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the... waters of the Commonwealth and which the state certifying authority having jurisdiction with respect to such property has certified to the Department of Taxation as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water... pollution or contamination.” Va. Code § 58.1-3660 also defines state certifying authority as “the State Water Control Board... for water pollution.” It should be noted that Va. Code § 58.1-3660 also includes the State Air Pollution Control Board for air pollution and the Virginia Waste Management Board for waste disposal facilities, etc. DEQ, on behalf of these boards, processes tax exemption certification requests for pollution control equipment and facilities.

In March 1992, the State Water Control Board issued guidance (Guidance Memo 92-006) on the recommended procedures for processing tax exemption certification requests for water pollution control equipment and facilities. Similar guidance was issued by the State Air Pollution Control Board and the Virginia Waste Management Board for their respective programs. Many amendments to the Code of Virginia (§ 58.1-3660) have occurred since the initial issuance of guidance by the aforementioned boards. In addition, DEQ was formed bringing the staff of the respective boards under common leadership. As a result, DEQ has been working to develop agency-wide guidance for processing tax exemption certification requests regardless of the associated media. In an effort to align the Division of Water Permitting’s long-standing processing procedures with the agency’s goal of cross-media consistency, a number of revisions to existing Guidance Memo 92-006 are necessary. See below for additional details.

REVISIONS TO EXISTING GUIDANCE MEMO NO. 92-006

C. Project Certification

Equipment and materials used primarily for the control or abatement of pollution are considered eligible for tax exemption. Other materials needed to complete the project (e.g., sidewalks, pavement, etc.) are no longer considered eligible for tax exemption. In addition, the requestor should provide an itemized listing of the equipment and materials used primarily for the control or abatement of pollution with their request.

G. Chemicals Used in Pollution Control Facilities

Chemicals used for the control or abatement of pollution are no longer considered eligible for tax exemption.

I. Retroactive Certification

Equipment and materials, facilities, or devices used primarily for the control or abatement of pollution are considered eligible for tax exemption provided that they have been constructed, reconstructed, erected, or acquired. These items are no longer considered eligible for tax exemption until such time that they have been constructed, reconstructed, erected, or acquired.

K. General Comments

As indicated in Item C above, the requestor should provide an itemized listing of the equipment and materials used primarily for the control or abatement of pollution with their request. Consequently, the percentage of use of the equipment should no longer be used to determine eligibility for tax exemption.

SEWERAGE SYTEMS OR SEWAGE COLLECTION SYSTEMS

Chapter 533 of the 2019 Acts of Assembly authorized DEQ to make available Water Quality Improvement Fund grants for the design and installation of certain sewage collection systems. As such, sewerage systems or sewage collection systems are considered eligible for tax exemption.