

Barbara L. Rubin

From: "Cal Sawyer" <Cal.Sawyer@vdh.virginia.gov>
To: "Barbara L. Rubin" <brubin@starpower.net>; "Robert W Hicks" <Robert.Hicks@vdh.virginia.gov>
Sent: Wednesday, May 05, 2004 2:49 PM
Subject: Biosolids - Regulations and Permits - Local Government

Mrs. Rubin:

The General Assembly has authorized only certain state agencies to approve the land application of biosolids: the Virginia Department of Health (VDH or the "Department") and the Department of Environmental Quality (DEQ). VDH and DEQ decide whether, where, and when land application activities can occur, all of which is specified in a permit issued to the person that will land-apply biosolids. State law, provides that compliance with a permit issued in accordance with the Biosolids Use Regulations is sufficient to engage in land application activities. The General Assembly has not authorized localities to create an approval scheme that conflicts with the State law. Furthermore, limitations were placed on a County's ability to order abatement of land application in Senate Bill 1088 (2003) and limited authority for monitoring those activities was granted in Virginia Code, Section 62.1-44.19:3. Localities can request that certain information be provided by the person that will land-apply biosolids, but they are not authorized to prohibit land application activities if all other state requirements are met.

Upon adoption of a local ordinance consistent with the Virginia Code, local governments may apply to VDH for reimbursement of reasonable testing and monitoring costs incurred to "ensure compliance with applicable laws and regulations" (§ 62.1-44.19:3(C); see also Biosolids Use Regulations, 12 VAC 5-585-50, -660(B)(2), -690 and -700). Section 62.1-44.19:3(D) of the Code authorizes VDH to collect fees from land applicators that apply biosolids in counties, cities and towns that adopt such an ordinance. As part of the fee reimbursement process, a local monitor should be assigned the responsibility of coordinating state permit actions with VDH and DEQ if necessary.

The Synagro Mid Atlantic, Inc. permit (VDHBUR 63) for land application of biosolids in Loudoun County is currently being processed by this office in cooperation with the Loudoun County Health Department. As part of the permit reissuance process, local governments are notified and requested to comment. Specific sites identified by either local government or VDH staff or both are re-inspected to ensure suitability for land application. The Department is committed to working with localities during the permit process. Indeed, the Department has deferred approving Synagro's permit to provide the County more time to consider and evaluate Synagro's application.

At the August 2003 Board of Health meeting you asserted that the Department had approved Synagro's request to renew its permit in Loudoun. This assertion was incorrect. The Department administratively extended Synagro's current permit to provide more time to evaluate their current application.

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You were notified of that decision by letter dated August 6, 2003, from Dr. Stroube, the State Health Commissioner. You subsequently replied to that letter by e-mail dated August 14, 2003. At this time the site inspections necessary for reissuance of the VDH BUR 63 Permit have been completed. I believe that Dr. Stroube will respond to the concerns that you expressed in recent letters to U.S. Senator Allen.

As to the regulation of biosolids transport vehicles, speed limits and weight restrictions are enforced through state and local law enforcement. Transport vehicles are to be properly sealed so as to prevent spillage of biosolids. Compliance with these requirements is noted in the Biosolids Use Regulations, 12 VAC 5-585-490. Additional requirements in this area are now being processed as an amendment to the Biosolids Use Regulations.

I hope that this information will help clarify these issues.

Cal Sawyer, PE, Director
Division of Wastewater Engineering

"Barbara L. Rubin" wrote:

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April 21, 2004

C.M. Sawyer, Division Director

Division of Wastewater Engineering

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Dear Mr Sawyer:

Can you please explain the process that is currently being undertaken in Loudoun County for sludge permits. I have asked the Loudoun County Health Department and they do not know what is happening with regard to permits for sludge. Were the permits applied for last year ever reissued? Apparently sludge was spread even though the permits had not formally been issued. Are there additional permits that are under consideration this year? Why is the local community, including the Loudoun County Health Department in the dark about this process? Did you (VDH) not claim the recent legislation would GIVE localities more control? This is obviously not true. Particularly as your administration has seen fit to interpret the law. All power has been stripped from localities, in spite of the fact **the Clean Water Act and Part 503 appear to be clear that "disposal or use of sludge is a LOCAL DETERMINATION"**.

5/5/2004