MEMORANDUM

Department of Environmental Quality
Division of Water Program Coordination

SUBJECT: Guidance Memo No. 01-2019 Implementation of Amendments to the VPA General Permit Regulation for Confined Animal Feeding Operations – New Registration Statement

TO: Regional Directors

FROM: Larry G. Lawson, P.E.

DATE: July 17, 2001

COPIES: Regional Permit Managers, Regional Compliance and Enforcement Managers, Regional Water Permit Managers, Mary Jo Leugers, Martin Ferguson, OWPP staff

The 2001 General Assembly enacted changes to the State Water Control Law requirement for registering a confined animal feeding operation (CAFO) under the Board's general permit, § 62.1-44.17:1 C 5. The amended passage of the law is the one that requires the farmer to notify adjoining property owners when applying for general permit coverage. Previously, this law required the notification whenever a registration statement was submitted to DEQ. The new language waives the neighbor notification requirement if the farm is renewing coverage under the general permit and is not expanding and is not subject to an enforcement order. This statutory change takes effect July 1, 2001.

This legislative action directly impacts language in the CAFO general permit regulation, 9 VAC 25-192-10 et seq. On June 12, the State Water Control Board amended the regulation to make it conform to the new statutory language. The amended passages are shown below. The amendments were adopted as final, without prior public notice, under the public participation exemption provided by the Administrative Process Act § 9-6.14:4.1 C 4 (a). The amendments were filed with the Registrar of Regulations on June 13 and appeared in the Virginia Register on July 2. They will be effective August 1. At that time, the revised text of the regulation will be posted on DEQNet. Since the impact of this change will not be felt until 2004 when the general permit is reissued, there is no immediate need for changes to the current process for issuing coverage under the general permit.

9 VAC 25-192-50 E. Adjacent Property Notification

The owner shall give notice of the registration statement to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. Such notice shall include: (i) the types and maximum number of animals which will be maintained at the facility; and (ii) the address and phone number of the appropriate Department regional office to which comments relevant to the permit may be submitted. This notice requirement is waived whenever registration is for the purpose of renewing coverage under the permit and no expansion is proposed and the Department has not issued any special or consent order relating to violations under the existing permit.

9 VAC 25-192-60 Item #8. Certification

"I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. (The preceding certification is waived if the registration is for renewing coverage under the general

permit and no expansion of the operation is proposed and the Department has not issued any special or consent order relating to violations under the existing permit.) I certify under penalty of law that all the requirements of the Board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

A revised Registration Statement is attached to this guidance memo. The regions may begin using this new form after August 1. However, it is important to remember that the waiver from neighbor notification does not take effect until the general permit is being reissued in 2004. If you have questions about this guidance, please call Richard Ayers at 804-698-4075.

DISCLAIMER

This document provides procedural guidance to the permit staff. This document is guidance only. It does not establish or affect legal rights or obligations. It does not establish a binding norm and is not finally determinative of the issues addressed. Agency decisions in any particular case will be made by applying the State Water Control Law and the implementation regulations on the basis of the site specific facts when permits are issued.

COMMONWEALTH of VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
VIRGINIA POLLUTION ABATEMENT GENERAL PERMIT REGISTRATION STATEMENT
FOR CONFINED ANIMAL FEEDING OPERATIONS

1. Facility Name:_____
   Address:_____City:_____ State:____ Zip Code:____
2. Owner Name:_____
   Address:_____City:_____ State:____ Zip Code:____
   Phone:_____
3. Operator Name:_____
   Address:_____City:_____ State:____ Zip Code:____
   Phone:_____
   Facility Contact:_____
   Phone:_____Best Time to Contact (day time):_____
4. Does this facility have an existing VPA permit or IW-ND Certificate? Yes_____ No_____
   If yes, list the existing VPA Permit Number or IW-ND Certificate Number:_____
5. Indicate the maximum number and average weight of the type(s) of animal which will be maintained at your facility:

Animal Type	Maximum Number	Average Weight
Dairy Cattle	_____	____
Slaughter and Feeder Cattle	_____	____
Swine	_____	____
Other _____	_____	____

6. The owner of any proposed pollutant management activities or those which have not previously been issued a valid VPA permit or IW-ND Certificate must attach to the Registration Statement the notification from the governing body of the county, city or town where the operation is located that the operation is consistent with all ordinances adopted pursuant to Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2 of the Code of Virginia.
7. The owner of the pollutant management activities must attach to the Registration Statement a copy of the letter from the Department of Conservation and Recreation certifying approval of the Nutrient Management Plan and a copy of the approved Nutrient Management Plan.
8. **Certification:**
   "I certify that notice of the registration statement has been given to all owners or residents of property that adjoins the property on which the confined animal feeding operation will be located. This notice included the types and numbers of animals which will be maintained at the facility and the address and phone number of the appropriate Department of Environmental Quality regional office to which comments relevant to the permit may be submitted. (The preceding certification is waived if the registration is for renewing coverage under the general permit and no expansion of the operation is proposed and the Department has not issued any special or consent order relating to violations under the existing permit.) I certify under penalty of law that all the requirements of the Board for the general permit are being met and that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

   Print Name:_____Title:_____

   Signature:_____ Date:_____

(8/2001)

INSTRUCTIONS

VPA GENERAL PERMIT REGISTRATION STATEMENT FOR CONFINED ANIMAL FEEDING OPERATIONS

General

A VPA General Permit Registration Statement must be submitted when an owner makes application to the Department of Environmental Quality for coverage under the VPA General Permit for Confined Animal Feeding Operations.

Section 1 Facility Information

Give the name of the animal feeding operation and enter its complete mailing address.

Section 2 Owner Information

Give the legal name of the person, firm, public organization, or any other entity that owns the facility or site described in this registration statement. The address of the owner may or may not be the same as the address of the facility. If they are the same, write "SAME AS ABOVE" in the appropriate spaces. Please include the owner's telephone number.

Section 3 Operator Information

Give the operator's name, mailing address and phone number. If these are the same as the owner information, write "SAME AS ABOVE" in the appropriate spaces. The operator is the person who manages daily activities at the site. Please also provide the name of a contact person, their phone number and the best time to make contact with them during regular working hours.

Section 4 Existing Permit Numbers

List the number of any expiring or currently effective permits issued to the animal feeding operation under the VPA permit program or the IW-ND certificate program.

Section 5 Animal Information

...dicate the maximum number and average weights of animals in each category that the operation will have at any one time.

Section 6 Local Government Ordinance Form (LGOF)

Every animal feeding operation seeking coverage under the general permit must provide notification that the operation is not in conflict with the local zoning and planning ordinances. This notification should be made on the LGOF which was provided with the Registration Statement and it must be signed by either the County Administrator, the City/Town Manager, the Mayor, or the Chairman of the Board of Supervisors. The LGOF form you submit must bear an orignial signature in ink, photocopies are not acceptable. Operations which have previously been issued a VPA permit or IW-ND certificate are not required to submit the LGOF because this issue was resolved during the earlier permit/certificate issuance. All operations which are applying for a permit for the first time must attach the LGOF to the Registration Statement.

Section 7 Nutrient Management Plan (NMP)

State law requires that every animal feeding operation seeking coverage under the VPA general permit have a Nutrient Management Plan. A copy of the operation's Nutrient Management Plan and a copy of the letter from the Virginia Department of Conservation and Recreation approving the operation's NMP must be attached to the Registration Statement.

Section 8 Certification

The Certification must bear an original signature in ink, photocopies are not acceptable. State statutes provide for severe penalties for submitting false information on this Registration Statement. State regulations require this Registration Statement to be signed as follows:

For a corporation: by a responsible corporate officer, which means: (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

For a partnership or sole proprietorship: by a general partner or the proprietor; or

›r a municipality, state, Federal, or other public facility: by either a principal executive officer or ranking elected official.