



2016 State Critical Issues

Biosolids

Action Requested of General Assembly

Virginia Farm Bureau urges legislators to:

- Maintain state oversight and regulation of the application of biosolids and industrial residuals as a source of nutrients on farmland
- Initiate an unbiased review (i.e., Joint Legislative Review and Audit Commission) of current literature, science, and regulation regarding the land application of biosolids and industrial residuals

Background

The land application of biosolids has been an accepted agricultural practice in Virginia for decades. During that time, no documented incidents of public health problems have occurred. However, the Virginia Department of Health implemented regulations for the land application of biosolids in January 1995. Since 2002, these regulations have been administered by the Virginia Department of Environmental Quality. The regulations thoroughly address the agronomic, environmental, public health, and nuisance concerns that have evolved.

The 1994 General Assembly amended the Right to Farm Act to exclude the land application of biosolids from protection under that law. In 1995, the General Assembly considered legislation to prohibit counties from barring land application or requiring special use permits for infrequent (once every three years) application of biosolids for agriculture, forestry, or mined land reclamation. In 1996, a bill was introduced that proposed a model ordinance which outlined the conditions for use of biosolids. Both the 1995 and 1996 legislation were defeated. During the 2001 General Assembly, legislation was adopted that allowed localities to collect a fee to fund local inspection of the land application of biosolids. Those regulations are in place and approximately 16 counties have adopted ordinances associated with the regulations with only having hired oversight staff

Two bills were introduced in the 2002 General Assembly. One bill attempted to overturn the Blanton Decision of the Virginia Supreme Court. This decision prevents local governments from banning the land application of biosolids. Additionally, legislation passed to shift the regulatory program from the Health Department to DEQ. This law increased attention to water quality and the number of inspectors available to oversee the program in an effort to improve the confidence of the general public in the program.

Legislation is introduced each year to reinterpret the role of local government in this issue. This would effectively remove Dillon Rule protection for this program. This rule reserves regulated programs to the state unless it grants that power to the localities. To date those bills have been unsuccessful in making changes.

In 2014 and 2015, permit amendments and new permit requests for application of industrial residuals (similar material but from the processing of agriculture and forestry products) renewed public interest and debate. Legislation passed in 2015 to further clarify regulations for the application of industrial residuals. At the same time legislation failed that would have reviewed each of this programs due to the biased nature the proposals.

The call for local government control is once again gaining attention but, as the history of this issue demonstrates, there are tools that local governments can utilize to enhance oversight.