

16102641D

**HOUSE JOINT RESOLUTION NO. 120**

Offered January 13, 2016

Prefiled January 12, 2016

*Directing the Joint Legislative Audit and Review Commission to study biosolids and industrial residuals in Virginia. Report.*

Patrons—Landes, Ware and Peace

Referred to Committee on Rules

WHEREAS, prior to 1994, the Department of Environmental Quality (DEQ) regulated all land application of treated sewage sludge, commonly known as biosolids, when biosolids were applied to agricultural lands; and

WHEREAS, in 1994 the General Assembly directed the Virginia Department of Health (VDH) to adopt regulations to ensure that (i) sewage sludge permitted for land application, marketing, or distribution is properly treated or stabilized; (ii) land application, marketing, and distribution of sewage sludge is performed in a manner that will protect public health and the environment; and (iii) the escape, flow, or discharge of sewage sludge into state waters in a manner that would cause pollution of state waters, as those terms are defined in § 62.1-44.3 of the Code of Virginia, will be prevented; and

WHEREAS, in 2007, the General Assembly authorized the transfer of all regulatory oversight of biosolids from VDH to DEQ; and

WHEREAS, since 2008, biosolids have been land applied in at least 68 localities in the Commonwealth, with at least 54 of those localities receiving biosolids annually; and

WHEREAS, between 2008 and 2013, an average of 221,000 dry tons of biosolids have been beneficially recycled over an average of 63,000 acres annually; and

WHEREAS, this acreage represents less than one percent of the available crop land, pasture land, and forest land in the Commonwealth of Virginia; and

WHEREAS, the National Academy of Sciences reviewed current practices, public health concerns, and regulatory standards and concluded that the use of biosolids in the production of crops for human consumption, when practiced in accordance with existing federal guidelines and regulations, presents negligible risk to the consumer, to crop production, or to the environment; and

WHEREAS, in accordance with House Joint Resolution No. 694 of the 2007 Session of the General Assembly, the Secretary of Natural Resources and Secretary of Health and Human Resources convened a panel of experts to study the impact of land application of biosolids on human health and the environment; and

WHEREAS, the General Assembly posed specific questions to the panel and requested that it consider the typical contaminant concentrations and application rates of biosolids in its study; and

WHEREAS, the panel included stakeholders from a broad range of disciplines, including medicine, higher education, forestry, agronomy, environmental science, ecology, veterinary medicine, and law; and

WHEREAS, the Secretary of Health and Human Resources and the Secretary of Natural Resources published the final report of the panel in 2008 (House Document 27); and

WHEREAS, the panel uncovered no evidence or literature verifying a causal link between biosolids and illness but recognized gaps in the science and knowledge surrounding this issue; and

WHEREAS, the panel stated that these gaps could be reduced through highly controlled epidemiological studies relating to health effects of land-applied biosolids and through additional efforts to reduce the limitations in quantifying all the chemical and biological constituents in biosolids; and

WHEREAS, the panel stated that there are gaps in the research that characterizes the composition, fate, and effects of pharmaceutical and personal care products and other persistent organic compounds in biosolids, as well as in other products, materials, and the environment; and

WHEREAS, House Joint Resolution No. 694 of the 2007 Session of the General Assembly also directed the panel to perform a detailed analysis of the chemical and biological composition of biosolids; and

WHEREAS, detailed analysis of the vast number of constituents of biosolids, combined with the specialized analytical methods employed to detect and quantify these constituents, involves significant cost; and

WHEREAS, because no funding was available to conduct new analyses, the panel was limited in performing a detailed analysis of the chemical and biological constituents of biosolids; and

WHEREAS, under § 405(d)(2)(C) of the federal Clean Water Act, the U.S. Environmental Protection Agency is required to conduct a review of the standards set out in 40 C.F.R. Part 503 not less than

INTRODUCED

HJ120

59 every two years for purposes of regulating new pollutants where sufficient data exist; and

60 WHEREAS, § 62.1-44.3 of the Code of Virginia defines industrial wastes as "liquid or other wastes  
61 resulting from any process of industry, manufacture, trade, or business or from the development of any  
62 natural resources"; and

63 WHEREAS, the land application in Virginia of industrial wastes, including industrial residuals, is  
64 regulated by the Virginia Department of Agriculture and Consumer Services (VDACS) and DEQ; and

65 WHEREAS, VDACS regulates certain industrial residuals as "industrial co-products" in accordance  
66 with the regulations applicable to agricultural liming materials and fertilizer, providing for the marketing  
67 and distribution of industrial wastes; and

68 WHEREAS, the land application of industrial residuals that is not regulated by VDACS is regulated  
69 by the State Water Control Board and DEQ; and

70 WHEREAS, industrial residuals from more than 35 facilities are land applied in Virginia pursuant to  
71 the terms of a Virginia Pollution Abatement or Virginia Pollutant Discharge Elimination System Permit  
72 issued by DEQ; and

73 WHEREAS, since taking over the regulatory program from VDH, DEQ has conducted over 10,000  
74 inspections of biosolids and industrial residual land application sites; and

75 WHEREAS, biosolids and industrial residuals are beneficially land applied on less than one percent  
76 of the cropland, pastureland, and forestland on Virginia farms; and

77 WHEREAS, on average, less than 10,000 dry tons of industrial wastes are land applied annually in  
78 Virginia, an amount representing less than five percent of the annual amounts of biosolids land applied  
79 in Virginia; and

80 WHEREAS, the permits issued by DEQ include authorization for land application of industrial  
81 wastes from a variety of facilities, including poultry hatching plants, breweries, rendering plants, chicken  
82 and pork processing and packaging plants, plants for the processing of apples, fish, meat, tomatoes, and  
83 wood, plants for the manufacturing of concentrated and dried soup stock, confections, beverages, and  
84 snack cakes, farmers' markets, and municipal potable water treatment plants; and

85 WHEREAS, the Department of Environmental Quality's permit application requires the applicant to  
86 submit details regarding the design of the industrial wastes treatment works, including the storage  
87 facility and land area determination, as well as characterization of the industrial wastes that includes  
88 analyses of heavy metals and other constituents; and

89 WHEREAS, DEQ examines the specific processes used at the facility generating the industrial wastes  
90 to determine whether any waste constituents may represent a threat to human health and the  
91 environment; and

92 WHEREAS, DEQ requires the permit applicant to provide analyses to determine the capacity of the  
93 land application site to assimilate nutrients, metals, and any other pollutants of concern, in order to  
94 demonstrate that the activity may be performed safely and protect the environment; now, therefore, be it

95 RESOLVED by the House of Delegates, the Senate concurring, That the Joint Legislative Audit and  
96 Review Commission be directed to study biosolids and industrial residuals in Virginia.

97 In conducting its study, the Joint Legislative Audit and Review Commission (JLARC) shall (i)  
98 analyze the current scientific literature regarding the long-term effects of biosolids and industrial  
99 residuals on health, including potential impacts on well, surface, and ground water; (ii) evaluate the  
100 regulatory requirements for land application and storage; (iii) evaluate the differences between biosolids  
101 and industrial residuals rated as "Class A" materials and "Class B" materials; (iv) evaluate the feasibility,  
102 especially for local governments, and including an economic impact on citizens of the Commonwealth,  
103 of requiring municipal utilities currently permitted to generate, as a byproduct of the municipal  
104 wastewater treatment process, "Class B" material to upgrade those facilities to generate "Class A"  
105 material; (v) evaluate the effectiveness of the local monitoring component of the programs, while also  
106 analyzing the potential for private contractors to serve in a monitoring capacity; (vi) evaluate both the  
107 potential outcomes and the probable costs from additional testing requirements for these products; (vii)  
108 analyze potential alternatives for waste materials that are currently processed and treated to be land  
109 applied, and any potential costs that could be associated with such alternatives; (viii) evaluate the  
110 contractual relationships among Virginia localities and the impacts of local agreements and decisions that  
111 could affect wastewater treatment and land application, including septic tank pump out requirements; and  
112 (ix) where applicable, analyze the potential impacts of Virginia's biosolids and industrial residuals  
113 regulations on agricultural interests and future economic development in the Commonwealth.

114 Technical assistance shall be provided to JLARC by the Department of Environmental Quality, the  
115 Virginia Department of Agriculture and Consumer Services, and the Virginia Department of Health. All  
116 agencies and academic institutions of the Commonwealth, local governments, and other interested parties  
117 as necessary shall provide assistance to JLARC for this study, upon request. Technical assistance shall  
118 also be provided by the members of the W3170, a multi-state workgroup composed of representatives of  
119 the U.S. Environmental Protection Agency, the U.S. Department of Agriculture, universities, and  
120 municipal governments from across the United States that is conducting research on understanding the

121 potential hazards and value of constituents in biosolids and other residuals.

122 The Joint Legislative Audit and Review Commission shall complete its meetings by November 30,  
123 2016, and the chairman shall submit to the Division of Legislative Automated Systems an executive  
124 summary of its findings and recommendations no later than the first day of the 2017 Regular Session of  
125 the General Assembly. The executive summary shall state whether the Joint Legislative Audit and  
126 Review Commission intends to submit to the General Assembly and the Governor a report of its  
127 findings and recommendations for publication as a House or Senate document. The executive summary  
128 and report shall be submitted as provided in the procedures of the Division of Legislative Automated  
129 Systems for the processing of legislative documents and reports and shall be posted on the General  
130 Assembly's website.

**INTRODUCED**

HJ120