

Health and Environmental Issues

1. Do VDH/BOH have an obligation to protect public health when biosolids are land applied?

(Reference: Health complaints, together with VDH's failure to adequately monitor, test, investigate and enforce when the public is forcibly exposed to biosolids, suggests that VDH/BOH may not have an obligation to protect public health. The conflict resulting from VDH's promotion of land applied biosolids give credence to that possibility.)

- a. Yes ____ No ____ Don't Know ____
- b. If No, what legislative directive is needed, and what steps have been taken to obtain such a directive?
- c. If Yes,
- (1) please cite the regulatory provision and set forth clearly any limitations to the ability to meet that obligation?
 - (2) please list by name, title and expertise of each individual charged with that obligation and the percent of their time devoted to providing that protection.

2. Do VDH/BOH have adequate authority to impose a moratorium on land application of biosolids until health and environmental risks can be scientifically documented and adequate protection implemented?

(Reference: Health complaints, the failure of VDH/BOH to determine the harmful constituents present in given biosolids, the lack of monitoring, testing and enforcement as well as the absence of needed health studies make it impossible to assure that public health is protected under the current biosolids program.)

- a. Yes ____ No ____ Don't Know ____
- b. If adequate authority, please explain why a moratorium has not been proposed and/or implemented.
- c. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?

3. Do VDH/BOH have adequate authority and sufficient funding to protect public health when biosolids are land applied?

(Reference: Health complaints together with VDH's failure to adequately monitor, test, investigate and enforce where the public is forcibly exposed to biosolids suggests that VDH/BOH might need additional authority and funding.)

- a. Yes ____ No ____ Don't Know ____
- b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such a directive?
- c. If insufficient funding, what is the estimated annual cost (\$_____), and what steps have been taken to secure additional funding?
- d. If adequate authority and sufficient funding, please explain why the public health issues raised by the public have not been addressed.

4. Do VDH/BOH have adequate authority and sufficient funding to address each request submitted by the public?

(Reference: the Board's Mission Statement and underlying Virginia Statutes.)

a. Yes ___ No ___ Don't Know ___

b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?

c. If insufficient funding, what is the estimated annual cost (\$_____), and what steps have been taken to secure additional funding?

d. If adequate authority and sufficient funding, please explain why they have not been addressed.

5. Do VDH/BOH have adequate authority and sufficient funding to provide notice sufficient to protect the immune compromised and others?

(Reference: The severely immune compromised [e.g. those who have received chemotherapy treatments, aids victims, etc] are routinely exposed to land applied biosolids without notice even though they are at high risk if exposed to pathogens and other harmful substances.)

a. Yes ___ No ___ Don't Know ___

b. If insufficient authority, what additional authority is needed, and what steps have been taken to obtain such authority?

c. If insufficient funding, what is the estimated annual cost (\$_____), and what steps have been taken to secure additional funding?

d. If adequate authority and sufficient funding, please explain why notice is not provided.

6. Do VDH/BOH have adequate authority and sufficient funding to preclude exposure of the severe immune compromised to keep them out of harms way?

(Reference: The severe immune compromised are at special risk when exposed to pollutants. In some cases death could result.)

a. Yes ___ No ___ Don't Know ___

b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?

c. If insufficient funding, what is the estimated annual cost (\$_____), and what steps have been taken to secure additional funding?

d. If adequate authority and sufficient funding, please explain why VDH has not taken steps to end the forced exposure of such individuals.

7. Do VDH/BOH have adequate authority and sufficient funding to determine the harmful constituents in land applied biosolids?

(Reference: Biosolids constituents can vary substantially from source to source and even from time to time from specific sources. Other than for a few heavy metals and fecal coliform no one tests to determine what other harmful constituents are present in any given biosolids.)

a. Yes ___ No ___ Don't Know ___

b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?

- c. If insufficient funding, what is the estimated annual cost (\$ _____), and what steps have been taken to secure additional funding?
 - d. If adequate authority and sufficient funding, please explain why VDH does not require this information be made available by those who dispose of biosolids in this manner.
8. Do VDH/BOH have adequate authority and sufficient funding to determine what harmful constituents may be present in land applied biosolids where health complaints are made?
- (Reference: Where health complaints occur following forced exposure to biosolids, family physicians and others cannot scientifically document biosolids as the cause because they cannot get information as to the specific constituents in the biosolids.)*
- a. Yes ____ No ____ Don't Know ____
 - b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
 - c. If insufficient funding, what is the estimated annual cost (\$ _____), and what steps have been taken to secure additional funding?
 - d. If adequate authority and sufficient funding, please explain why testing is not undertaken following health complaints.
 - e. Please explain if VDH's claims to have scientifically documentation that harmful constituents that may be in biosolids did not cause the health complaints that followed exposure to biosolids. If such claims are made, please set forth the scientific documentation.
9. Do VDH/BOH have adequate authority and sufficient funding to test and monitor the aerosols near application sites to determine what harmful constituents may be present, especially where health complaints are made?
- (Reference: Complaints following forced exposure to biosolids aerosols are persistent and growing.)*
- a. Yes ____ No ____ Don't Know ____
 - b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
 - c. If insufficient funding, what is the estimated annual cost (\$ _____), and what steps have been taken to secure additional funding?
 - d. If adequate authority and sufficient funding, please explain why testing is not undertaken following health complaints.
 - e. Please explain how under these circumstances VDH/BOH could scientifically document that biosolids could not have been the cause of the health complaints.
10. Do VDH/BOH have adequate authority and sufficient funding to scientifically determine potential health risks to those forcibly exposed to biosolids?
- (Reference: NAS study indicating lack of data, limited information as to biosolids constituents as well as the lack of scientific studies and other indicators confirm that it is currently scientifically impossible to determine the health risks.)*

- a. Yes ____ No ____ Don't Know ____
- b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
- c. If insufficient funding, what is the estimated annual cost (\$ _____), and what steps have been taken to secure additional funding?
- d. Please explain why VDH/BOH have not scientifically documented the potential health risks.

11. Do VDH/BOH have adequate authority and sufficient funding to allow reimbursement of local governments for tests to determine what harmful constituents may be present in biosolids that could cause health problems?

(Reference: The General Assembly authorized local governments to test biosolids and to be reimbursed for that effort. However, VDH has refused to allow reimbursement for any testing for pathogens and many other pollutants that could cause health problems, especially when health complaints are made.)

- a. Yes ____ No ____ Don't Know ____
- b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
- c. If insufficient funding, what is the estimated annual cost (\$ _____), and what steps have been taken to secure additional funding?
- d. If adequate authority and sufficient funding, please explain why reimbursement of local governments for those tests have not been authorized by VDH.

12. Do VDH/BOH have adequate authority to work with local personal physicians where biosolids appear to be the cause of their health complaints?

(Reference: There is no known policy or practice requiring VDH physicians to work with personal physicians of those who claim to have been made ill following exposure to biosolids to determine if biosolids was the cause.)

- a. Yes ____ No ____ Don't Know ____
- b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
- c. If Yes, what policies and practices are currently in place, and why has it taken citizen demands to get VDH medical personnel involved in specific cases?

13. Have VDH/BOH scientifically determined that land applied biosolids cause no harm to those forcibly exposed to biosolids, especially the immune compromised?

(Reference: The public has been unable to find any documented scientific study to establish that land applied biosolids cause no harm to those exposed, yet individuals continue to become ill following exposure.)

- a. Yes ____ No ____ Don't Know ____
- b. If Yes, please list the independent peer reviewed studies relied on by VDH, and explain how they support the existence of any claimed scientific documentation.
- c. If No, is it because there is insufficient authority to reach a scientific determination? If so, what additional authority is needed, and what steps have been taken to obtain such authority

d. If insufficient funding, what is the estimated annual cost (\$ _____), and what steps have been taken to secure additional funding?

14. Do VDH/BOH have authority to promote land application of biosolids?

(Reference: VDH promotional policies and practices.)

a. Yes ____ No ____ Don't Know ____

b. If Yes, please cite the relevant authority and respond to the following questions:

(1) what policies and practices are in place to offset the conflict of interest caused by VDH promotion of that which it regulates?

(2) what limitations, if any, apply to the ability to promote land application of biosolids?

(3) Does VDH also have authority not to promote land application of biosolids?

c. If No, please explain why VDH employees who are charged with regulating land applied biosolids also promote land application of those same biosolids?

15. Do VDH/BOH have adequate authority to allow land application of biosolids without having fully tested biosolids constituents and without independent health studies.

(Reference: Biosolids are never fully tested [testing is currently limited to a few heavy metals, fecal coliform and nutrients, pathogens and other harmful constituents are not tested for] and independent health studies have not been conducted.)

a. Yes ____ No ____ Don't Know ____

b. If Yes, please cite the relevant authority and any limitations to such authority.

c. If Yes, does VDH/BOH also have adequate authority to refuse to allow such applications? If not, what additional authority is needed, and what steps have been taken to obtain such authority?

d. If Yes, please explain how public health could be protected when VDH/BOH do not have access to that information to address ongoing health complaints and the potential public health risks?

e. If No, why does VDH allow those land applications of biosolids?

16. *(References: VDH makes a number of claims (without supporting facts or science) regarding land applied biosolids when applied in accordance with VDH regulations, including by way of example:*

If applied in accordance with Virginia Regulations they are safe.

There is no documented scientific evidence that biosolids cause harm.

Funds are not available to identify all harmful constituents.

Funds are not available to adequately test, monitor or enforce.)

Does VDH have authority to make such claims?

a. Yes ____ No ____ Don't Know ____

b. If Yes, please cite that authority and any limitations to such authority.

c. If No, what is the basis for those statements?

Does VDH have facts to support these statements?

- a. Yes ___ No ___ Don't Know ___
- b. If Yes, what are the documented facts on which VDH relies, and what are the limitations of the factual support?

Has VDH scientifically documented claims of safety and lack of harm?

- a. Yes ___ No ___ Don't Know ___
- b. If Yes, what is the documented scientific evidence on which VDH relies.
- c. If No, why are such statements made?

Does VDH have a definition for "safe" when biosolids are referred to as safe?

- a. Yes ___ No ___ Don't Know ___
- b. If Yes, what is that definition?

Does VDH have a definition for "harm" and "documented" when claims are made that there is no documented evidence of harm caused by biosolids?

- a. Yes ___ No ___ Don't Know ___
- b. If Yes, what are the definitions?

Is there any basis for statements such as those referred to above?

(Reference: Lack of information on biosolids constituents as well as lack of scientific studies, known violations of VDH regulations, limited enforcement efforts and funding).

- a. Yes ___ No ___ Don't Know ___
- b. If Yes, what is the basis?
- c. If insufficient funding, what is the estimated annual cost (\$_____) to enable VDH to be in a position to provide meaningful comments on safety and harm, especially when health complaints have been made? What steps have been taken to secure additional funding?

Enforcement Issues

1. Do VDH/BOH have adequate authority and sufficient funding to enforce the biosolids regulations?

(Reference: violations are ongoing and there is little enforcement effort.)

- a. Yes ___ No ___ Don't Know ___
- b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
- c. If insufficient funding, what is the estimated annual cost (\$_____), and what steps have been taken to secure additional funding?
- d. If adequate authority and sufficient funding, please explain why ongoing violations are documented in VDH files as well as by citizen complaints.

2. Do VDH/BOH have authority to selectively enforce biosolids regulations?

(Reference: VDH has a policy of selectively enforcing its biosolids regulations. For example, the regulations clearly require that both nitrogen and phosphorous in biosolids be limited to crop needs, but VDH has refused to enforce the phosphorous limitation provision.)

- a. Yes ____ No ____ Don't Know ____
 - b. If Yes, please cite that authority and all limitations to such authority.
 - c. If No, please explain why VDH refuses and/or fails to enforce its biosolids regulations?
3. Does VDH have adequate authority to impose substantial fines for violations, especially repeated violations?
- (Reference: In spite of repeated violations, it does not appear that VDH imposes meaningful penalties.)*
- a. Yes ____ No ____ Don't Know ____
 - b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
 - c. If adequate authority, how often have such penalties been imposed, what criteria is used to impose such penalties, and why have they generally not been imposed?
4. Does VDH have adequate authority to include citizens on complaint-investigating committees and/or inquiries?
- (Reference: Although there have been many complaints by citizens, VDH generally denies or ignores the existence of such complaints.)*
- a. Yes ____ No ____ Don't Know ____
 - b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
 - c. If adequate authority, what plans, policies and regulations exist to assure citizen inclusion?

Other Issues

1. Do VDH/BOH have an obligation to provide information to the public about the nature and risks associated with biosolids?
- (Reference: VDH is generally nonresponsive to requests for this type of information.)*
- a. Yes ____ No ____ Don't Know ____
 - b. If No, what legislative directive is needed, and what steps have been taken to obtain such a directive?
 - c. If Yes,
 - (1) please cite the regulatory provision and set forth clearly all limitations, if any, to the ability to meet that obligation?
 - (2) please list by name, title and expertise of each individual charged with that obligation and the percent of their time devoted to that activity.

2. Do VDH/BOH have adequate authority and funding to establish a vehicle such as BURAC to receive input from biosolids victims, local governments and others to develop regulatory changes?

(Reference: BURAC serves as a vehicle for the biosolids industry to develop regulatory changes they want. There is no known similar vehicle for sludge victims, local governments and others.)

- a. Yes ____ No ____ Don't Know ____
- b. If inadequate authority, what authority is needed, and what steps have been taken to obtain such authority?
- c. If insufficient funding, what is the estimated annual cost (\$____), and what steps have been taken to secure additional funding?
- d. If adequate authority and sufficient funding, please explain why such a vehicle has not been made available to sludge victims and local governments?

3. Does BOH have authority to accept "direct" input from citizens who are distrustful of VDH?

(Reference: VDH has proved nonresponsive and arrogant in its dealings with the public on biosolids issues.)

- a. Yes ____ No ____ Don't Know ____
- b. If Yes, please cite the authority and explain why BOH directs that input be through VDH when VDH is perceived by the public as untrustworthy.
- c. If No, what additional authority is needed, and what steps have been taken to obtain such authority?

4. Do VDH/BOH have adequate authority and funding to provide information to the public about the nature and risks associated with biosolids?

(Reference: VDH is general nonresponsive to provide this information.)

- a. Yes ____ No ____ Don't Know ____
- b. If inadequate authority, what additional authority is needed, and what steps have been taken to obtain such authority?
- c. If insufficient funding, what is the estimated annual cost (\$____), and what steps have been taken to secure additional funding?
- d. If adequate authority and sufficient funding, please explain why much of this information remains unavailable to the public.