



*Commonwealth of Virginia*

**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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## Meeting Minutes

**Virginia Pollution Abatement (VPA) Permit Regulation, 9VAC25-32  
Implementation of Chapter 209 of the 2024 Acts of Assembly (HB870)  
Regulatory Advisory Panel Meeting  
May 13, 2025**

The Virginia Department of Environmental Quality (DEQ) held the second Regulatory Advisory Panel (RAP) meeting beginning at 9:30 AM on May 13, 2025, at DEQ's Piedmont Regional Office located at 4949-A Cox Road, Glen Allen, Virginia 23060. The RAP's purpose is to collect stakeholder input, assist in associated regulatory processes, and help DEQ balance the concerns of all those interested in the action being undertaken. The RAP is a public body that serves in an advisory capacity to assist DEQ in its regulatory effort with the Implementation of Chapter 209 of the 2024 Acts of Assembly (HB870). DEQ provided notice of the RAP meeting on the Virginia Regulatory Town Hall website and the meeting was open to the public.

**RAP Members in Attendance**

Brad Copenhaver, Virginia Agribusiness Council	Adrienne Kotula, Chesapeake Bay Commission
Tom Dunlap, James River Association	Nicholas Moody, Virginia Department of Conservation and Recreation
Mike Gerel, Chesapeake Bay Foundation	Milas Smith, Jr., Virginia Association of Municipal Wastewater Agencies (VAMWA)
James Hutzler, Virginia Association of Counties	John Uzupis, Virginia Biosolids Council
Bryan Johnson, Virginia Farm Bureau	

**RAP Members Not in Attendance:**

David Flores, Potomac Riverkeeper Network	Julie Henderson, Virginia Department of Health, Office of Environmental Health Services
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DEQ Staff:

Neil Zahradka, Manager, Office of Land Application Programs / Water Division	Nelson Daniel, Policy Division
Jeanette Ruiz, Regulatory Analyst	Bryan Cauthorn, Biosolids Program Coordinator

Interested Members of the Public in Attendance:

Joe Lerch, VACO	Robert Crocket, Advantus
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**Welcome and Overview**

Neil Zahradka facilitated the meeting and began by welcoming RAP members and thanking them for their efforts to help DEQ develop proposed regulations to implement the requirements in the 2024 legislation. Mr. Zahradka asked members of the RAP to comment or indicate whether any changes were needed for the meeting minutes from the first RAP meeting on April 7, 2025. Members did not offer any requested changes and Mr. Zahradka announced the minutes posted to Virginia’s Town Hall would be finalized.

James Hutzler provided a summary of responses VACO received from an informal survey of its members about local ordinances related to biosolids storage. A table with survey results follows the minutes.

**Introduction – Biosolids management plan and storage**

Mr. Zahradka provided an overview of the potential regulatory framework and supplemental language needed to incorporate panel recommendations discussed during the previous meeting. Mr. Zahradka indicated the meeting would focus on the draft regulatory language provided to members prior to the meeting for their review.

**Panel Discussion – 9VAC25-32-410 Biosolids management plan**

The panel discussed the proposed “Alternative Management Plan,” including the appropriate regulation to include addressing the plan. Discussion also included the need to document available storage capacity—both at land application sites and generating facilities. It was clarified that documenting all possible storage options does not alter permitting requirements or allowances. The panel recommended that this clarification be included in Section F.1 of 9VAC25-32-410.

The panel also discussed the conclusion of the active storage phase including procedures, notifications, and timelines. Panel members noted that using emergency alternative storage options (i.e., initiating the alternative management plan) would likely result in higher costs for the land applier due to out-of-cycle trucking rates incurring higher fees than routine trucking rates. As a result, panel members noted there is a shared interest amongst the panel for the alternative management plan’s active phase to conclude as soon as conditions allow.

A panel member recommended that a public comment period or public notification be utilized for alternative management plans. Additionally, a panel member requested that DEQ process the submitted alternative management plans within a month. Another panel member requested a review of regulatory terms to ensure consistency between terms such as “may,” “shall,” and “must.” They also proposed revising the proposed language in 9VAC25-32-410, Section F.2.b and F.2.c addressing reductions and deviations from regulatory requirements. A brief panel discussion followed, and members agreed revising the language would enhance the clarity of the section of the regulation.

### **Panel Discussion – 9VAC25-32-550 Storage facilities.**

- **Notifications for Alternative Sites**

Panel members discussed the need for notification requirements for alternative storage sites. It was recommended that language be added to Section F.1 to specify notifications are needed to inform counties and the public. Discussions addressed the permittees responsibility of notifications and how the method should reflect the context of the emergency situation and the need for rapid notifications due to the emergency situation turnaround.

- **Karst Topography (Section F.9)**

A panel member expressed concern about allowing emergency storage under extreme weather conditions in areas with karst topography. The group discussed whether additional restrictions should be added, particularly addressing the slope. One member noted that karst sites should not be categorically disqualified, as they may still be viable under certain conditions. A question was asked whether determinations are made using hydrogeologic evaluations and whether site visits are required. DEQ responded that site-specific knowledge or visits would likely be necessary.

- **Emergency Management Planning**

A panel member clarified that this regulatory effort relates more to emergency management plans than to alternative management plans. It was suggested that the language should reflect the emergency scenarios and the need for flexibility under restrictive site conditions. Panel members proposed renaming the plan an “Emergency Management Plan” to clarify its scope and distinguish it from routine procedures. There was consensus that this would provide clearer regulatory context.

- **Approval Process for Emergency Storage**

Members expressed the need for a nimble, responsive approval process for emergency storage at alternative sites, particularly where pre-approval planning may not be feasible. DEQ indicated the intention to support pre-approval processes while still encouraging proactive planning wherever possible. Panel members emphasized the importance of using clear “emergency” language in communication, particularly to the public to reflect the

seriousness of such scenarios. The group discussion reflected agreement on calling the plan an “Emergency Management Plan.”

- **Nutrient Management Plans**

A panel member inquired about allowances for deviating from nutrient management plan approval requirements. DEQ clarified that exemptions cannot be granted through regulations, as the conditions specifying when nutrient management plans must be approved by the Virginia Department of Conservation and Recreation is governed by state water control law. Therefore, DEQ cannot provide exemptions through this regulatory effort.

- **Consensus Check**

Panel members participated in a consensus vote on new regulatory language added to 9VAC25-32-410 outlining an emergency management plan and procedures. Panel members voted in general agreement that the current language was acceptable.

Panel members participated in a second consensus vote on new regulatory language developed to outline requirements for emergency storage in 9VAC25-32-550. Panel members conditionally supported the regulatory language, pending review of final changes. Members noted the need for internal staff discussions before confirming support. All members ultimately agreed in principle, with some members requesting time to review the final version before final agreement.

### **Public comment**

None

### **Proposed Solutions and Next Steps**

Mr. Zahradka noted that consensus appeared to have been reached across the various member organizations represented on the panel. Mr. Zahradka then posed the question of whether an additional meeting would be necessary. A panel member responded that the current draft reflects both regulatory relief for land appliers and protections for water quality and expressed the view that another meeting may not be needed. Other members of the panel generally nodded in agreement, and no dissenting opinions were raised. Mr. Zahradka agreed to prepare and circulate a draft version of the regulations that reflect the edits and changes the panel discussed during the meeting. This version will be distributed to panel members for a final round of comments.

- Meeting adjourned at 3:05PM

Informal Survey Results on Local Ordinances and Biosolids Storage (Provided by VACO)

<b>County</b>	<b>Ordinance #</b>	<b>Description</b>	<b>Things of note</b>
<b>Floyd County</b>		No zoning in county	
<b>Rappahannock County</b>	<a href="#">Chapter 68 of the Rappahannock County Code (RCC) for Biosolids. Biosolids storage facilities located Section 170-68 D</a>	Adopted 2007. Special use in ag districts, Additional standards for biosolids storage facilities	
<b>Nelson County</b>	<a href="#">Chapter 10 - SOLID WASTE   Code of Ordinances   Nelson County, VA   Municode Library</a>	2007 - Sec. 10-37. - Storage. Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the permittee. Biosolids shall not be stored at any site in the county other than storage that is approved in accordance with the law and regulations of the state agency.	
<b>Henry County</b>	<a href="#">Chapter 10 - Article 5 - Land Application of Biosolids</a>	Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the permittee. Biosolids shall not be stored at any site in the County other than storage that is approved in accordance with the law and regulations of the Virginia Department of Health.	
<b>Appomattox County</b>	<a href="#">Section 19.6-67</a>	2020 - add "storage of sewage sludge" to our zoning in the A-1, Ag district, as a Conditional Use many years ago.	
<b>Mecklenburg County</b>	does not regulate biosolids		
<b>Isle of Wight</b>	<a href="#">Chapter 14 - Article XIV</a>	Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the permittee. Biosolids shall not be stored at any site in Isle of Wight County other than storage that is approved in accordance with the law and regulations of the Virginia Department of Health. (5-21-09.)	"Every couple of years, we may get one notice, but it's been years since the last one."
<b>Nottoway County</b>	adopted in 2001	Inclement weather is not an extenuating circumstance relieving any person from his obligations under this section. Hay and pasture land excluded. • f. Biosolids may be applied to lands in Nottoway County on Monday through Friday of each week. Under emergency circumstances, the Biosolids Coordinator may extend the application to Saturday on a case by case basis.	no storage ordinance
<b>Southampton County</b>	Chapter 7 - Article IV Biosolids 2004	Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the permittee. Biosolids shall not be stored at any site in the county other than storage that is approved in accordance with the law and regulations of the Virginia Department of Health.	no storage ordinance

<b>County</b>	<b>Ordinance #</b>	<b>Description</b>	<b>Things of note</b>
<b>Gloucester County</b>	<a href="#">Chapter 9.5 - Article IV - Land Application of Biosolids</a>	2001- Its also listed as a permitted use in the RC-1 Rural Countryside District in our zoning ordinance. Says Application of biosolids is a use not storage.	"I don't believe we've ever had an application to apply biosolids since the ordinance was adopted."
<b>Culpeper County</b>		Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the Permittee. Biosolids shall not be stored at any site in Culpeper County other than storage that is approved in accordance with the law and regulations of the Virginia Department of Environmental Quality. 2013	Specifically, section 9-6-9 of this code section speaks to storage and based on this it doesn't appear we currently address provisions for long term storage
<b>James City County</b>		"We do require SUP's when it's for a commercial or industrial use. We would not require an SUP when it is accessory to a bonafide Agricultural operation."	Specific to VACO's question of "This effort stems from concerns raised during the heavy precipitation of 2018-2019, when many storage facilities reached capacity", and that this inquiry is specific to "Sewage Sludge": I don't know of any situations in James City County where sewage sludge is stored in open pits or in open containers. Separate and apart from any wet-weather sanitary sewer overflows that HRSO may experience during times of heavy rain, should there be an incident in James City County where sewage sludge or biosolid fertilizer overflows its container due to heavy rains and gets into a waterway, JCC would treat this as an "Illicit Discharge" under current county code. Under current county code, any person who, intentionally or otherwise, commits any of the acts or allows such acts to be committed on his or her property (i.e., Illicit Discharges) shall be liable to the county for all costs of monitoring, containment, cleanup, abatement, removal and disposal of any substance unlawfully discharged into the storm sewer system.
<b>Orange County</b>		Sec 66-68 Storage Biosolids shall be land applied as they are received at the site unless land application is precluded by unforeseen weather conditions or other circumstances beyond the control of the permittee. Biosolids shall not be stored at any site in Orange County other than storage that is approved in accordance with the Regulations of the Virginia Department of Health. The biosolids monitor shall be notified as to the construction of biosolids storage sites prior to their construction.	

<u>County</u>	<u>Ordinance #</u>	<u>Description</u>	<u>Things of note</u>
<b>Clarke County</b>		<p>Clarke County would consider storage of biosolids to be a prohibited use unless it is in conjunction with a permitted land application project. "Biosolids land application" is a defined use in the Zoning Ordinance. Per our Ordinance, any use that is not specifically listed or can be interpreted as an allowable use is considered to be a prohibited use.</p> <p>For reference to the "biosolids land application" use, see page 5-6 in the County Zoning Ordinance at this link --  <a href="https://www.clarkecounty.gov/home/showpublisheddocument/13301/638744416512630000">https://www.clarkecounty.gov/home/showpublisheddocument/13301/638744416512630000</a></p>	
<b>Arlington County</b>		<p>The transfer, and storage of biosolids would be regulated by the Arlington County Zoning Ordinance (ACZO). The use you have described would be allowed by-right in only a few zoning districts. It would either be allowed only with the approval of a County Board approved use permit, or disallowed in most of our zoning districts.</p> <p>The use category system used in the ACZO would place the activity you have described in the "waste-related service" use category which is "characterized by uses that receive solid or liquid wastes from others for transfer to another location and uses that collect sanitary wastes or that manufacture or produce goods or energy from the composting of organic material." (ACZO§12.2.2.6.E). Though the ACZO doesn't refer to either biosolids or sewage sludge directly, the waste-related service category includes the solid or liquid waste transfer as a distinct use. This use is allowed by-right in some public zoning districts (S-3A &amp; P-S) and in some industrial zoning districts (M-1 &amp; M-2). This use requires a use permit in most of the commercial districts, and is not an allowed use in the residential districts. You can find more specific information about which zoning districts would or would not allow this use either by-right, or with a use permit, in the principal use tables in articles 4-8 of the ACZO.</p>	