

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 493

An Act to amend and reenact § 62.1-44.18:3 of the Code of Virginia, relating to permits for private sewerage facilities; waiver of filing requirements; penalty.

[S 1404]

Approved March 22, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.18:3 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.18:3. Permit for private sewerage facility; financial assurance; violations.

A. No person shall operate a privately owned sewerage system or sewerage treatment works, including an LHS 120 facility, that discharges more than 1,000 gallons per day and less than 40,000 gallons per day without obtaining a Virginia Pollutant Discharge Elimination System permit. Any owner of such a facility shall file with the Board a plan to abate, control, prevent, remove, or contain any substantial or imminent threat to public health or the environment that is reasonably likely to occur if such facility ceases operations. Such plan shall also include a demonstration of financial capability to implement the plan. Financial capability may be demonstrated by the creation of a trust fund, a submission of a bond, a corporate guarantee based upon audited financial statements, or such other instruments as the Board may deem appropriate. The Board may require that such plan and instruments be updated as appropriate.

For the purposes of this section, "ceases operation" means to cease conducting the normal operation of a facility that is regulated under this chapter under circumstances where it would be reasonable to expect that such operation will not be resumed by the owner at the facility. The term shall not include the sale or transfer of a facility in the ordinary course of business or a permit transfer in accordance with Board regulations.

Any person who ceases operations and who knowingly and willfully fails to implement a closure plan or to provide adequate funds for implementation of such plan shall, if such failure results in a significant harm or an imminent and substantial threat of significant harm to human health or the environment, be liable to the Commonwealth and any political subdivision thereof for the costs incurred in abating, controlling, preventing, removing, or containing such harm or threat. This shall not in any way limit other recourse available to the Board.

Any person who ceases operations and who knowingly and willfully fails to implement a closure plan or to provide adequate funds for implementation of such plan shall, if such failure results in a significant harm or an imminent and substantial threat of significant harm to human health or the environment, be guilty of a Class 4 felony.

B. The Board may waive the filing of the plan required pursuant to subsection A for any person who operates a privately owned sewerage system or sewerage treatment works that was permitted prior to January 1, 2001, and discharges less than 5,000 gallons per day upon a finding that such person has not violated any regulation or order of the Board, any condition of a permit to operate the facility, or any provision of this chapter for a period of not less than five years; provided, that no waiver may be approved by the Board until after the governing body of the locality in which the facility is located approves the waiver after a public hearing. The Board may revoke such waiver at any time for good cause. Any person receiving a waiver who ceases operations shall, if such cessation of operation results in a significant harm or an imminent and substantial risk of significant harm to human health and the environment, be guilty of a Class 4 felony and liable to the Commonwealth and any political subdivision thereof, for the costs incurred in abating, controlling, preventing, removing, or containing such harm or threat.

~~B.~~ C. The Department of Environmental Quality shall promulgate regulations necessary to carry out the provisions of this section. The Department shall identify by January 1, 2001, those facilities regulated under this section.