

VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

CHAPTER 587

An Act to amend and reenact § 10.1-1429.1 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 14 of Title 10.1 an article numbered 4.3, consisting of a section numbered 10.1-1429.5, and by adding a section numbered 62.1-229.2, relating to voluntary remediation of contaminated properties.

[H 1873]

Approved March 24, 2001

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1429.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 14 of Title 10.1 an article numbered 4.3, consisting of a section numbered 10.1-1429.5, and by adding a section numbered 62.1-229.2 as follows:

§ 10.1-1429.1. Regulation of voluntary remediation; cleanup standards; permit requirements; registration fees.

A. The Board shall promulgate regulations to allow persons who own, operate, have a security interest in or enter into a contract for the purchase of contaminated property to voluntarily remediate releases of hazardous substances, hazardous wastes, solid wastes or petroleum. The regulations shall apply where remediation has not clearly been mandated by the United States Environmental Protection Agency, the Department or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of those statutes has been waived. The regulations shall provide for the following:

1. The establishment of methodologies to determine site-specific risk-based remediation standards, which shall be no more stringent than applicable or appropriate relevant federal standards for soil, groundwater and sediments, taking into consideration scientific information regarding the following: (i) protection of public health and the environment; (ii) the future industrial, commercial, residential, or other use of the property to be remediated and of surrounding properties; (iii) reasonably available and effective remediation technology and analytical quantitation technology; (iv) the availability of institutional or engineering controls that are protective of human health or the environment; and (v) natural background levels for hazardous constituents;

2. The establishment of procedures that minimize delay and expense of the remediation, to be followed by a person volunteering to remediate a release and by the Department in processing submissions and overseeing remediation;

3. The issuance of certifications of satisfactory completion of remediation, based on then-present conditions and available information, where voluntary cleanup achieves applicable cleanup standards or where the Department determines that no further action is required;

4. Procedures to waive or expedite issuance of any permits required to initiate and complete a voluntary cleanup consistent with applicable federal law; ~~and~~

5. *Procedures to provide technical assistance, advice and other aid to persons volunteering to remediate a release; and*

6. Registration fees to be collected from persons conducting voluntary remediation to defray the actual reasonable costs of the voluntary remediation program expended at the site not to exceed the lesser of \$5,000 or one percent of the cost of the remediation; *however, no registration fee shall be required when the person conducting voluntary remediation is a local government.*

B. ~~The Board shall promulgate the regulations required under subsection A to be in effect by July 1, 1997. Prior to the promulgation of those regulations, the Board, through the Director, shall administer a voluntary remediation program on a case-by-case basis consistent with the criteria set out in subsection A, including, but not limited to, the collection of registration fees. Persons conducting voluntary remediation pursuant to an agreement with the Department entered into prior to the promulgation of those the regulations required under subsection A may elect to complete the cleanup in accordance with such an agreement or the regulations.~~

Article 4.3.

Virginia Voluntary Remediation Fund.

§ 10.1-1429.5. *Virginia Voluntary Remediation Fund established; uses.*

A. *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Voluntary Remediation Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. The Fund shall consist of moneys appropriated to it by the General Assembly and such other sums as may be made available to it from any other source, public or*

private, all of which shall be credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. The Fund shall be exempt from indirect costs assessed by the Department of Accounts.

B. Moneys in the Fund shall be used (i) solely for the purposes of providing grants to local governments for the voluntary remediation of hazardous substances, hazardous wastes, solid wastes or petroleum on contaminated property owned or operated by the local government, and (ii) where remediation has not been clearly mandated by the United States Environmental Protection Agency, the Department or a court pursuant to the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law, or where jurisdiction of those statutes has been waived.

C. The Board, through the Director, shall have the authority to access and release moneys in the Fund for purposes of this section as long as the disbursement does not exceed the balance of the Fund. If the Board, through the Director, requests a disbursement in an amount exceeding the current Fund balance, the disbursement shall require the written approval of the Governor.

Disbursements from the Fund may be made for the purposes outlined in subsection B, including, but not limited to, personnel, administrative and equipment costs and expenses directly incurred by the Board, or by any other agency or political subdivision acting at the direction of the Board.

D. The Board shall develop guidelines that, after approval by the Governor, shall determine how the Fund can be used for the purposes of this section.

§ 62.1-229.2. Loans for remediation of contaminated properties.

Loans may be made from the Fund, in the Board's discretion, to local governments, public authorities, partnerships or corporations for necessary remediation activities undertaken pursuant to § 10.1-1429.1 for the purpose of reducing ground water contamination or reducing risk to public health. The Board shall develop guidelines for the administration of such loans and shall determine the terms and conditions of any loan from the Fund.

2. That the provisions of §§ 10.1-1429.1 and 10.1-1429.5 of this act shall not become effective unless an appropriation effectuating the purposes of this act is included in an appropriation act up through the 2004 Appropriation Act, passed by the General Assembly, and signed into law by the Governor.