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HOUSE BILL NO. 791

Offered January 21, 2000

A BILL 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, relating to voluntary remediation of contaminated properties.

Patrons—Deeds; Senator: Trumbo

Referred to Committee on Conservation and Natural Resources

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, 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*

5.6. 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; *provided, however, that 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*

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59 established on the books of the Comptroller. The Fund shall consist of moneys appropriated to it by the
60 General Assembly and such other sums as may be made available to it from any other source, public or
61 private, all of which shall be credited to the Fund. Interest earned on moneys in the Fund shall remain
62 in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the
63 end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the
64 Fund shall be used solely for the purposes described in subsection B. Expenditures and disbursements
65 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
66 request signed by the Director. This Fund shall be exempt from indirect costs assessed by the
67 Department of Accounts.

68 B. The Fund shall be used by the Board solely for the purposes of providing grants to local
69 governments for the voluntary remediation of hazardous substances, hazardous wastes, solid wastes or
70 petroleum on contaminated property owned or operated by the local government. The Fund shall be
71 used where remediation has not been clearly mandated by the United States Environmental Protection
72 Agency, the Department or a court pursuant to the Comprehensive Environmental Response,
73 Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act
74 (42 U.S.C. § 6901 et seq.), the Virginia Waste Management Act (§ 10.1-1400 et seq.), the State Water
75 Control Law (§ 62.1-44.2 et seq.), or other applicable statutory or common law or where jurisdiction of
76 those statutes has been waived.

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

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

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