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HOUSE BILL NO. 2198

House Amendments in [] - February 7, 2005

A *BILL to amend and reenact § 32.1-164.5 of the Code of Virginia, relating to the training of persons testing and monitoring sewage sludge.*

Patron Prior to Engrossment—Delegate Abbitt

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 32.1-164.5 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-164.5. Land application, marketing and distribution of sewage sludge; regulations; permit.

A. No person shall contract or propose to contract, with the owner of a sewage treatment works, to land apply, market or distribute sewage sludge in the Commonwealth, nor shall any person land apply, market or distribute sewage sludge in the Commonwealth without a current Virginia Pollution Abatement Permit from the State Water Control Board or a current permit from the State Health Commissioner authorizing land application, marketing or distribution of sewage sludge and specifying the location or locations, and the terms and conditions of such land application, marketing or distribution.

B. The Board of Health, with the assistance of the Departments of Environmental Quality and Conservation and Recreation, shall promulgate regulations to ensure that (i) sewage sludge permitted for land application, marketing or distribution is properly treated or stabilized, (ii) land application, marketing and distribution of sewage sludge is performed in a manner that will protect public health and the environment, and (iii) the escape, flow or discharge of sewage sludge into state waters, in a manner that would cause pollution of state waters, as those terms are defined in § 62.1-44.3, will be prevented.

C. Regulations promulgated by the Board of Health, with the assistance of the Departments of Environmental Quality and Conservation and Recreation pursuant to subsection B of this section, shall include:

1. Requirements and procedures for the issuance and amendment of permits as required by this section;

2. Procedures for amending land application permits to include additional application sites and sewage sludge types;

3. Standards for treatment or stabilization of sewage sludge prior to land application, marketing or distribution;

4. Requirements for determining the suitability of land application sites and facilities used in land application, marketing or distribution of sewage sludge;

5. Required procedures for land application, marketing and distribution of sewage sludge;

6. Requirements for sampling, analysis, record keeping and reporting in connection with land application, marketing and distribution of sewage sludge;

7. Provisions for notification of local governing bodies to ensure compliance with §§ 32.1-164.2 and 62.1-44.15:3;

8. Requirements for site-specific nutrient management plans, which shall be developed by persons certified in accordance with § 10.1-104.2 prior to land application for all sites where sewage sludge is land applied, and requirements for approval of nutrient management plans by the Department of Conservation and Recreation prior to permit issuance under specific conditions, including but not limited to sites operated by an owner or lessee of a Confined Animal Feeding Operation, as defined in subsection A of § 62.1-44.17:1, or Confined Poultry Feeding Operation, and sites where the permit authorizes land application more frequently than once every three years at greater than 50 percent of the annual agronomic rate; and

9. Procedures for the prompt investigation and disposition of complaints concerning land application of sewage sludge, including the requirements that (i) holders of permits issued under this section shall report all complaints received by them to the State Department of Health and to the local governing body of the jurisdiction in which the complaint originates, and (ii) localities receiving complaints concerning land application of sewage sludge shall notify the Department and the permit holder. The Department shall maintain a searchable electronic database of complaints received during the current and preceding calendar year, which shall include information detailing each complaint and how it was resolved.

D. Where, because of site-specific conditions identified during the permit application review process, the Department determines that special requirements are necessary to protect the environment or the

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59 health, safety or welfare of persons residing in the vicinity of a proposed land application site, the
60 Department may incorporate in the permit at the time it is issued reasonable special conditions regarding
61 buffering, transportation routes, slope, material source, methods of handling and application and time of
62 day restrictions exceeding those required by the regulations promulgated under this section. Before
63 incorporating any such conditions into the permit, the Department shall provide written notice to the
64 permit applicant, specifying the reasons therefor and identifying the site-specific conditions justifying the
65 additional requirements. The Department shall incorporate into the notice any written requests or
66 recommendations concerning such site-specific conditions submitted by the local governing body where
67 the land application is to take place. The permit applicant shall have at least 14 days in which to review
68 and respond to the proposed conditions. Should the permit applicant object to the inclusion of any such
69 condition, the approval of the Commissioner shall be required before the condition objected to may be
70 included in the permit.

71 E. The Board may adopt regulations prescribing a reasonable fee not to exceed \$2,500 to be charged
72 for the direct and indirect costs associated with the processing of an application to issue, reissue, amend
73 or modify any permit to land apply, distribute or market sewage sludge pursuant to this section.

74 F. There is hereby established in the treasury a special fund to be known as the Sludge Management
75 Permit Fee Fund, hereinafter referred to as the fund. The fees required by this section shall be
76 transmitted to the Comptroller to be deposited into the fund. The income and principal of the fund shall
77 be used only and exclusively for the direct and indirect costs associated with the processing of an
78 application to issue, reissue, amend or modify any permit to land apply, distribute or market sewage
79 sludge. The State Treasurer shall be the custodian of the moneys deposited in the fund. No part of the
80 fund, either principal or interest earned thereon, shall revert to the general fund of the state treasury.

81 G. All persons holding or applying for a permit authorizing the land application of sewage sludge
82 shall provide to the Department written evidence of financial responsibility, which shall be available to
83 pay claims for cleanup costs, personal injury and property damages resulting from the transportation,
84 storage or land application of sewage sludge. The Board of Health shall, by regulation, establish and
85 prescribe mechanisms for meeting the financial responsibility requirements of this section.

86 H. *The Board and the Department, in consultation with the Department of Environmental Quality,*
87 *the Department of Conservation and Recreation, the Department of Agriculture and Consumer Services,*
88 *Virginia Polytechnic Institute and State University, and the Virginia Agricultural Extension Service, shall*
89 *establish and implement a program to train persons employed by those local governments that have*
90 *adopted ordinances, pursuant to § 62.1-44.19:3, to test and monitor the land application of sewage*
91 *sludge. The program shall include, at a minimum, instruction in: (i) the provisions of the Virginia*
92 *Biosolids Use Regulations; (ii) land application methods and equipment, including methods and*
93 *processes for preparation and stabilization of sewage sludge that is land applied; (iii) sampling and*
94 *chain of custody control; (iv) preparation and implementation of nutrient management plans for land*
95 *application sites; (v) complaint response and preparation of complaint and inspection reports; (vi)*
96 *enforcement authority and procedures, (vii) interaction and communication with the public; and (viii)*
97 *preparation of applications for reimbursement of local monitoring costs disbursed pursuant to*
98 *subdivision D 3 of § 62.1-44.19:3. To the extent feasible, the program shall emphasize in-field*
99 *instruction and practical training. The completion of training shall not be a prerequisite to the exercise*
100 *of authority granted to local governments by any applicable provision of law.*

101 *The Department may:*

102 1. *Charge attendees a reasonable fee to recover the actual costs of preparing course materials and*
103 *providing facilities [and instructors] for the program. The fee shall be reimbursable from the fund*
104 *established pursuant to § 62.1-44.19:3; and*

105 2. *Request and accept the assistance and participation of other state agencies and institutions in*
106 *preparing and presenting the course of training established by this subsection.*