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HOUSE BILL NO. 1206

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources on February 7, 2018)

(Patron Prior to Substitute—Delegate Cline)

A BILL to amend and reenact § 62.1-44.16 of the Code of Virginia, relating to discharge of industrial wastes; notice of application.

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.16 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.16. Industrial wastes.

A. Any owner who erects, constructs, opens, reopens, expands, or employs new processes in or operates any establishment from which there is a potential or actual discharge of industrial wastes or other wastes to state waters shall first provide facilities approved by the Board for the treatment or control of such industrial wastes or other wastes.

Application for such discharge shall be made to the Board and shall be accompanied by pertinent plans, specifications, maps, and such other relevant information as may be required, in scope and details satisfactory to the Board.

1. Public notice of every such application shall be given by notice published once a week for two successive weeks in a newspaper of general circulation in the county or city where the certificate is applied for or by such other means as the Board may prescribe. However, to the extent authorized by federal law and if the permit applicant so chooses, an abbreviated public notice shall be published in such newspaper listing the name of the permitted facility, the type of discharge, and a link to the Department's website with such public notice.

2. The Board shall review the application and the information that accompanies it as soon as practicable and making a ruling within a period of four months from the date the application is filed with the Board approving or disapproving the application and stating the grounds for conditional approval or disapproval. If the application is approved, the Board shall grant a certificate for the discharge of the industrial wastes or other wastes into state waters or for the other alteration of the physical, chemical, or biological properties of state waters, as the case may be. If the application is disapproved, the Board shall notify the owner as to what measures, if any, the owner may take to secure approval.

B. Any owner operating under a valid certificate issued by the Board who fails to meet water quality standards established by the Board solely as a result of a change in water quality standards or in the law shall provide the necessary facilities approved by the Board within a reasonable time to meet such new requirements; provided, however, that such facilities shall be reasonable and practicable of attainment giving consideration to the public interest and the equities of the case. The Board may amend such certificate, or revoke it and issue a new one to reflect such facilities after proper hearing, with at least thirty days' notice to the owner of the time, place, and purpose thereof. If such revocation or amendment of a certificate is mutually agreeable to the Board and the owner involved, the hearing and notice may be dispensed with.

C. The Board shall revoke the certificate in case of a failure to comply with all such requirements and may issue a special order under subdivisions (8a), (8b), and (8c) of § 62.1-44.15 (8).

D. Any locality may adopt an ordinance that provides for the testing and monitoring of the land application of solid or semisolid industrial wastes within its political boundaries to ensure compliance with applicable laws and regulations.

E. The Board shall adopt regulations requiring the payment of a fee for the land application of solid or semisolid industrial wastes, pursuant to permits issued under this section, in localities that have adopted ordinances in accordance with subsection D. The person land applying industrial wastes shall (i) provide advance notice of the estimated fee to the generator of the industrial wastes unless notification is waived, (ii) collect the fee from the generator, and (iii) remit the fee to the Department of Environmental Quality as provided by regulation. The fee shall be imposed on each dry ton of solid or semisolid industrial wastes that is land applied in a locality in accordance with the regulations adopted by the Board. The regulations shall include requirements and procedures for:

1. Collection of fees by the Department of Environmental Quality;

2. The deposit of collected fees into the Sludge Management Fund established by subsection G of § 62.1-44.19:3; and

3. Disbursement of proceeds from the Sludge Management Fund by the Department of Environmental Quality pursuant to subsection G of § 62.1-44.19:3.

F. The Department, in consultation with the Department of Health, the Department of Conservation

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60 and Recreation, the Department of Agriculture and Consumer Services, and the Virginia Cooperative
61 Extension Service, shall establish and implement a program to train persons employed by those local
62 governments that have adopted ordinances, pursuant to this section, to test and monitor the land
63 application of industrial wastes. The program shall include, at a minimum, instruction in (i) the
64 provisions of the Virginia Pollution Abatement Permit Regulation; (ii) land application methods and
65 equipment, including methods and processes for preparation and stabilization of industrial wastes that are
66 land applied; (iii) sampling and chain of custody control; (iv) preparation and implementation of nutrient
67 management plans for land application sites; (v) complaint response and preparation of complaint and
68 inspection reports; (vi) enforcement authority and procedures; (vii) interaction and communication with
69 the public; and (viii) preparation of applications for reimbursement of local monitoring costs disbursed
70 pursuant to subsection G of § 62.1-44.19:3. To the extent feasible, the program shall emphasize in-field
71 instruction and practical training. Persons employed by local governments shall successfully complete
72 such training before the local government may request reimbursement from the Board for testing and
73 monitoring of land application of solid or semisolid industrial wastes performed by the person. The
74 completion of training shall not be a prerequisite to the exercise of authority granted to local
75 governments by any applicable provision of law.

76 The Department may:

77 1. Charge attendees a reasonable fee to recover the actual costs of preparing course materials and
78 providing facilities and instructors for the program. The fee shall be reimbursable from the Fund
79 established pursuant to subsection G of § 62.1-44.19:3; and

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

82 **2. That the adoption of amendments to the State Water Control Board regulations necessary to**
83 **implement the provisions of this act shall be exempt from Article 2 (§ 2.2-4006 et seq. of the Code**
84 **of Virginia) of the Administrative Process Act if the Department of Environmental Quality accepts**
85 **public comment on the proposed amendments for at least 60 days and provides a summary of the**
86 **public comments to the Board prior to Board action on the amendments.**