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SENATE BILL NO. 1373

Offered January 13, 2021

Prefiled January 13, 2021

A BILL to amend and reenact § 10.1-1408.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 10.1-1321.2 and 10.1-1437.1, by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.6:1, and by adding a section numbered 62.1-266.1, relating to environmental permits; community and environmental justice outreach.

Patrons—McClellan, Boysko and Locke; Delegate: Carr

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1408.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1321.2 and 10.1-1437.1, by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.6:1, and by adding a section numbered 62.1-266.1 as follows:

§ 10.1-1321.2. Community and environmental justice outreach.

A. Beginning July 1, 2021, no application for a permit for a new or major modified stationary air pollution source shall be considered complete unless the applicant has completed the requirements of this section. This section shall not apply to a general permit or a permit by rule.

B. Prior to submitting the notice of intent to the Department, the applicant shall conduct at least one public meeting in the locality where the new or major modified stationary air pollution source is proposed to be located. At least 60 days prior to the public meeting, the applicant shall:

1. Publish a notice in at least one local paper of general circulation in the locality where the facility or project is proposed to be located. Such notice shall be printed in English and Spanish and shall (i) contain a statement of the estimated impact of the proposed action; (ii) provide available information regarding specific pollutants and the estimated quantities of each that may be emitted; (iii) list the type, estimated quantity, and expected source of any fuel proposed to be used; (iv) advise the public where to obtain information regarding its proposal; (v) include a statement that the applicant will hold a public meeting where oral comments will be accepted and setting forth the date, time, and location of the public meeting; and (vi) provide an address and email address where the public can provide written comments to the applicant regarding the proposal.

2. Post the notice required by subdivision 1, in English and Spanish, on a social media platform targeted to the area where the facility or project is to be located and mail the notice, in English and Spanish, to (i) the chief elected official of, chief administrative officer of, and planning district commission for the locality where the facility or project is proposed to be located; (ii) every public library, United States post office, and public school located within a five-mile radius of the proposed facility or project; (iii) any federally recognized and state-recognized Indian tribe within a five-mile radius of the proposed facility or project; (iv) the primary address of any owner and any inhabitant of any parcel of real property that is depicted as within a five-mile radius of the proposed facility or project on the current real estate tax assessment maps of the locality where the facility or project is proposed to be located; (v) if the boundary of another Virginia locality is located within a three-mile radius of the proposed facility or project, the chief elected official of, chief administrative officer of, and planning district commission for such locality; and (vi) the Department.

3. Post a sign, in English and Spanish, at the site of the proposed facility or project that is visible and legible from the public right-of-way in both directions of travel. The sign shall remain in place until there has been final action on the permit application. The sign shall be made of weather-resistant materials and shall be sturdily mounted so as to be capable of remaining in place and legible throughout the period that the sign is required at the site. The sign shall be temporary, nonilluminated, and four square feet or more in area and shall contain only the following information:

- a. A statement of what type of facility or activity is proposed at the site;
- b. The name of the applicant;
- c. The telephone number of an individual designated by the applicant to respond to inquiries; and
- d. The date, time, and location of the public meeting.

The applicant shall make a good faith effort to replace or repair any sign that has been removed from the proposed facility or project site or that has been damaged so as to render any of its required information illegible.

The Department may grant a waiver to the requirements in this section regarding signage, or require

59 *alternative posting options, due to extenuating circumstances or where requirements conflict with local*
60 *government ordinances or another requirement regulating the use of signs.*

61 *C. At the public meeting, the applicant shall provide information about the facility or project,*
62 *including the potential associated environmental impacts. The permit applicant shall accept written and*
63 *oral comments during the public meeting and shall accept written comments during the entire period of*
64 *the public notice and for 15 days after the close of the public meeting.*

65 *D. The applicant shall transcribe the public meeting and shall submit the transcript, along with any*
66 *written comments received and a report responding to any comments received, to the Department with*
67 *its application materials, including a certification of compliance with the requirements of this section*
68 *and materials demonstrating such to the Department's satisfaction.*

69 **§ 10.1-1408.1. Permit required; open dumps prohibited.**

70 *A. No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage*
71 *of nonhazardous solid waste without a permit from the Director.*

72 *B. No application for (i) a new solid waste management facility permit or (ii) application for a*
73 *permit amendment or variance allowing a category 2 landfill, as defined in this section, to expand or*
74 *increase in capacity shall be complete unless it contains the following:*

75 *1. Certification from the governing body of the county, city or town in which the facility is to be*
76 *located that the location and operation of the facility are consistent with all applicable ordinances. The*
77 *governing body shall inform the applicant and the Department of the facility's compliance or*
78 *noncompliance not more than 120 days from receipt of a request from the applicant. No such*
79 *certification shall be required for the application for the renewal of a permit or transfer of a permit as*
80 *authorized by regulations of the Board;*

81 *2. A disclosure statement, except that the Director, upon request and in his sole discretion, and when*
82 *in his judgment other information is sufficient and available, may waive the requirement for a disclosure*
83 *statement for a captive industrial landfill when such a statement would not serve the purposes of this*
84 *chapter;*

85 *3. If the applicant proposes to locate the facility on property not governed by any county, city or*
86 *town zoning ordinance, certification from the governing body that it has held a public hearing, in*
87 *accordance with the applicable provisions of § 15.2-2204, to receive public comment on the proposed*
88 *facility. Such certification shall be provided to the applicant and the Department within 120 days from*
89 *receipt of a request from the applicant;*

90 *4. If the applicant proposes to operate a new ~~sanitary~~ landfill or transfer station, a statement,*
91 *including a description of the steps taken by the applicant to seek the comments of the residents of the*
92 *area where the ~~sanitary~~ landfill or transfer station is proposed to be located, regarding the siting and*
93 *operation of the proposed ~~sanitary~~ landfill or transfer station. The public comment steps shall be taken*
94 *prior to filing with the Department the notice of intent to apply for a permit for the ~~sanitary~~ landfill or*
95 *transfer station as required by the Department's solid waste management regulations. The public*
96 *comment steps shall include publication of a public notice, in English and Spanish, once a week for two*
97 *consecutive weeks in a newspaper of general circulation serving the locality where the ~~sanitary~~ landfill*
98 *or transfer station is proposed to be located and holding at least one public meeting within the locality*
99 *to identify issues of concern, to facilitate communication and to establish a dialogue between the*
100 *applicant and persons who may be affected by the issuance of a permit for the ~~sanitary~~ landfill or*
101 *transfer station. The public notice shall be printed in English and Spanish and include a statement of the*
102 *applicant's intent to apply for a permit to operate the proposed ~~sanitary~~ landfill or transfer station;; the*
103 *proposed ~~sanitary~~ landfill or transfer station site location;; the date, time, and location of the public*
104 *meeting the applicant will hold; and the name, address, and telephone number of a person employed by*
105 *the applicant; who can be contacted by interested persons to answer questions or receive comments on*
106 *the siting and operation of the proposed ~~sanitary~~ landfill or transfer station. The first publication of the*
107 *public notice shall be at least ~~fourteen~~ 60 days prior to the public meeting date.*

108 *The provisions of this subdivision shall not apply to applicants for a permit to operate a new captive*
109 *industrial landfill or a new construction-demolition-debris landfill. At least 60 days prior to the public*
110 *meeting, the applicant shall post the notice, in English and Spanish, on a social media platform targeted*
111 *to the area where the proposed landfill or transfer station is to be located and mail the notice, in*
112 *English and Spanish, to (i) the chief elected official of, chief administrative officer of, and planning*
113 *district commission for the locality where the landfill or transfer station is proposed to be located; (ii)*
114 *every public library, United States post office, and public school located within a five-mile radius of the*
115 *proposed landfill or transfer station; (iii) any federally recognized and state-recognized Indian tribe*
116 *within a five-mile radius of the proposed facility or project; (iv) the primary address of any owner and*
117 *any inhabitant of any parcel of real property that is depicted as within a five-mile radius of the*
118 *proposed facility or project on the current real estate tax assessment maps of the locality where the*
119 *landfill or transfer station is proposed to be located; (v) if the boundary of another Virginia locality is*
120 *located within a three-mile radius of the proposed landfill or transfer station, the chief elected official*

of, chief administrative officer of, and planning district commission for such locality; and (vi) the Department.

At least 60 days prior to the public meeting, the applicant shall post a sign, in English and Spanish, at the site of the proposed landfill or transfer station that is visible and legible from the public right-of-way in both directions of travel. The sign shall remain in place until there has been final action on the permit application. The sign shall be made of weather-resistant materials and shall be sturdily mounted so as to be capable of remaining in place and legible throughout the period that the sign is required at the site. The sign shall be temporary, nonilluminated, and four square feet or more in area and shall contain only the following information:

- a. A statement of what type of facility or activity is proposed at the site;
- b. The name of the applicant;
- c. The telephone number of an individual designated by the applicant to respond to inquiries; and
- d. The date, time, and location of the public meeting.

The applicant shall make a good faith effort to replace or repair any sign that has been removed from the proposed landfill or transfer station site or that has been damaged so as to render any of its required information illegible.

The Department may grant a waiver to the requirements in this section regarding signage, or require alternative posting options, due to extenuating circumstances or where requirements conflict with local government ordinances or another requirement regulating the use of signs.

At the public meeting, the applicant shall provide information about the proposed landfill or transfer station, including the potential associated environmental impacts. The permit applicant shall accept written and oral comments during the public meeting and shall accept written comments during the entire period of the public notice and for 15 days after the close of the public meeting.

The applicant shall transcribe the public meeting and shall submit the transcript, along with any written comments received and a report responding to any comments received, to the Department with its application materials, including a certification of compliance with the requirements of this section and materials demonstrating such to the Department's satisfaction;

5. If the applicant is a local government or public authority that proposes to operate a new ~~municipal~~ ~~sanitary~~ landfill or transfer station, a statement, including a description of the steps taken by the applicant to seek the comments of the residents of the area where the ~~sanitary~~ landfill or transfer station is proposed to be located, regarding the siting and operation of the proposed ~~sanitary~~ landfill or transfer station. The public comment steps shall be taken prior to filing with the Department the notice of intent to apply for a permit for the ~~sanitary~~ landfill or transfer station as required by the Department's solid waste management regulations. The public comment steps shall include the formation of a citizens' advisory group to assist the locality or public authority with the selection of a proposed site for the ~~sanitary~~ landfill or transfer station, publication of a public notice once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the ~~sanitary~~ landfill or transfer station is proposed to be located, and holding at least one public meeting within the locality to identify issues of concern, to facilitate communication and to establish a dialogue between the applicant and persons who may be affected by the issuance of a permit for the ~~sanitary~~ landfill or transfer station. The public notice shall include a statement of the applicant's intent to apply for a permit to operate the proposed ~~sanitary~~ landfill or transfer station; the proposed ~~sanitary~~ landfill or transfer station site location; the date, time, and location of the public meeting the applicant will hold; and the name, address, and telephone number of a person employed by the applicant, who can be contacted by interested persons to answer questions or receive comments on the siting and operation of the proposed ~~sanitary~~ landfill or transfer station. The first publication of the public notice shall be at least ~~fourteen~~ 14 days prior to the public meeting date. For local governments that have zoning ordinances, such public comment steps as required under §§-15.2-2204 and 15.2-2285 shall satisfy the public comment requirements for public hearings and public notice as required under this section. At least 60 days prior to the public meeting, the applicant shall post the notice, in English and Spanish, on a social media platform targeted to the area where the proposed landfill or transfer station is to be located and mail the notice, in English and Spanish, to (i) the chief elected official of, chief administrative officer of, and planning district commission for the locality where the landfill or transfer station is proposed to be located; (ii) every public library, United States post office, and public school located within a five-mile radius of the proposed landfill or transfer station; (iii) any federally recognized and state-recognized Indian tribe within a five-mile radius of the proposed landfill or transfer station; (iv) the primary address of any owner and any inhabitant of any parcel of real property that is depicted as within a five-mile radius of the proposed landfill or transfer station on the current real estate tax assessment maps of the locality where the facility or project is proposed to be located; (v) if the boundary of another Virginia locality is located within a three-mile radius of the proposed landfill or transfer station, the chief elected official of, chief administrative officer of, and planning district commission for such locality; and (vi) the Department.

182 At least 60 days prior to the public meeting, the applicant shall post a sign, in English and Spanish,
183 at the site of the proposed landfill or transfer station that is visible and legible from the public
184 right-of-way in both directions of travel. The sign shall remain in place until there has been final action
185 on the permit application. The sign shall be made of weather-resistant materials and shall be sturdily
186 mounted so as to be capable of remaining in place and legible throughout the period that the sign is
187 required at the site. The sign shall be temporary, nonilluminated, and four square feet or more in area
188 and shall contain only the following information:

- 189 a. A statement of what type of facility or activity is proposed at the site;
- 190 b. The name of the applicant;
- 191 c. The telephone number of an individual designated by the applicant to respond to inquiries; and
- 192 d. The date, time, and location of the public meeting.

193 The applicant shall make a good faith effort to replace or repair any sign that has been removed
194 from the proposed landfill or transfer station site or that has been damaged so as to render any of its
195 required information illegible.

196 The Department may grant a waiver to the requirements in this section regarding signage, or require
197 alternative posting options, due to extenuating circumstances or where requirements conflict with local
198 government ordinances or another requirement regulating the use of signs.

199 At the public meeting, the applicant shall provide information about the proposed landfill or transfer
200 station, including the potential associated environmental impacts. The permit applicant shall accept
201 written and oral comments during the public meeting and shall accept written comments during the
202 entire period of the public notice and for 15 days after the close of the public meeting.

203 The applicant shall transcribe the public meeting and shall submit the transcript, along with any
204 written comments received and a report responding to any comments received, to the Department with
205 its application materials, including a certification of compliance with the requirements of this section
206 and materials demonstrating such to the Department's satisfaction.

207 Any applicant which is a local government or public authority that proposes to operate a new
208 transfer station on land where a ~~municipal sanitary~~ landfill is already located shall be exempt from the
209 public comment requirements for public hearing and public notice otherwise required under this section;

210 6. If the application is for a new municipal solid waste landfill or for an expansion of an existing
211 municipal solid waste landfill, a statement, signed by the applicant, guaranteeing that sufficient disposal
212 capacity will be available in the facility to enable localities within the Commonwealth to comply with
213 solid waste management plans developed pursuant to § 10.1-1411, and certifying that such localities will
214 be allowed to contract for and to reserve disposal capacity in the facility. This provision shall not apply
215 to permit applications from one or more political subdivisions for new landfills or expanded landfills
216 that will only accept municipal solid waste generated within those political subdivisions' jurisdiction or
217 municipal solid waste generated within other political subdivisions pursuant to an interjurisdictional
218 agreement;

219 7. If the application is for a new municipal solid waste landfill or for an expansion of an existing
220 municipal solid waste landfill, certification from the governing body of the locality in which the facility
221 would be located that a host agreement has been reached between the applicant and the governing body
222 unless the governing body or a public service authority of which the governing body is a member would
223 be the owner and operator of the landfill. The agreement shall, at a minimum, have provisions covering
224 (i) the amount of financial compensation the applicant will provide the host locality, (ii) daily travel
225 routes and traffic volumes, (iii) the daily disposal limit, and (iv) the anticipated service area of the
226 facility. The host agreement shall contain a provision that the applicant will pay the full cost of at least
227 one full-time employee of the locality whose responsibility it will be to monitor and inspect waste
228 transportation and disposal practices in the locality. The host agreement shall also provide that the
229 applicant shall, when requested by the host locality, split air and water samples so that the host locality
230 may independently test the sample, with all associated costs paid for by the applicant. All such sampling
231 results shall be provided to the Department. For purposes of this subdivision, "host agreement" means
232 any lease, contract, agreement or land use permit entered into or issued by the locality in which the
233 landfill is situated which includes terms or conditions governing the operation of the landfill;

234 8. If the application is for a locality-owned and locality-operated new municipal solid waste landfill
235 or for an expansion of an existing such municipal solid waste landfill, information on the anticipated (i)
236 daily travel routes and traffic volumes, (ii) daily disposal limit, and (iii) service area of the facility; and

237 9. If the application is for a new solid waste management facility permit or for modification of a
238 permit to allow an existing solid waste management facility to expand or increase its capacity, the
239 application shall include certification from the governing body for the locality in which the facility is or
240 will be located that: (i) the proposed new facility or the expansion or increase in capacity of the existing
241 facility is consistent with the applicable local or regional solid waste management plan developed and
242 approved pursuant to § 10.1-1411; or (ii) the local government or solid waste management planning unit
243 has initiated the process to revise the solid waste management plan to include the new or expanded

facility. Inclusion of such certification shall be sufficient to allow processing of the permit application, up to but not including publication of the draft permit or permit amendment for public comment, but shall not bind the Director in making the determination required by subdivision D 1.

C. Notwithstanding any other provision of law:

1. Every holder of a permit issued under this article who has not earlier filed a disclosure statement shall, prior to July 1, 1991, file a disclosure statement with the Director.

2. Every applicant for a permit under this article shall file a disclosure statement with the Director, together with the permit application or prior to September 1, 1990, whichever comes later. No permit application shall be deemed incomplete for lack of a disclosure statement prior to September 1, 1990.

3. Every applicant shall update its disclosure statement quarterly to indicate any change of condition that renders any portion of the disclosure statement materially incomplete or inaccurate.

4. The Director, upon request and in his sole discretion, and when in his judgment other information is sufficient and available, may waive the requirements of this subsection for a captive industrial waste landfill when such requirements would not serve the purposes of this chapter.

D. 1. Except as provided in subdivision D 2, no permit for a new solid waste management facility nor any amendment to a permit allowing facility expansion or an increase in capacity shall be issued until the Director has determined, after an investigation and analysis of the potential human health, environmental, transportation infrastructure, and transportation safety impacts and needs and an evaluation of comments by the host local government, other local governments and interested persons, that (i) the proposed facility, expansion, or increase protects present and future human health and safety and the environment; (ii) there is a need for the additional capacity; (iii) sufficient infrastructure will exist to safely handle the waste flow; (iv) the increase is consistent with locality-imposed or state-imposed daily disposal limits; (v) the public interest will be served by the proposed facility's operation or the expansion or increase in capacity of a facility; and (vi) the proposed solid waste management facility, facility expansion, or additional capacity is consistent with regional and local solid waste management plans developed pursuant to § 10.1-1411. The Department shall hold a public hearing within the said county, city or town prior to the issuance of any such permit for the management of nonhazardous solid waste. Subdivision D 2, in lieu of this subdivision, shall apply to nonhazardous industrial solid waste management facilities owned or operated by the generator of the waste managed at the facility, and that accept only waste generated by the facility owner or operator. The Board shall have the authority to promulgate regulations to implement this subdivision.

2. No new permit for a nonhazardous industrial solid waste management facility that is owned or operated by the generator of the waste managed at the facility, and that accepts only waste generated by the facility owner or operator, shall be issued until the Director has determined, after investigation and evaluation of comments by the local government, that the proposed facility poses no substantial present or potential danger to human health or the environment. The Department shall hold a public hearing within the county, city or town where the facility is to be located prior to the issuance of any such permit for the management of nonhazardous industrial solid waste.

E. The permit shall contain such conditions or requirements as are necessary to comply with the requirements of this Code and the regulations of the Board and to protect present and future human health and the environment. To the extent allowed by federal law, any person holding a permit that is intending to upgrade the permitted solid waste management facility by installing technology, control equipment, or other apparatus that the permittee demonstrates to the satisfaction of the Director will result in improved energy efficiency, protect waters of the state, including both surface and ground water, and protect air quality shall not be required to obtain a modified or amended permit.

The Director may include in any permit such recordkeeping, testing and reporting requirements as are necessary to ensure that the local governing body of the county, city or town where the waste management facility is located is kept timely informed regarding the general nature and quantity of waste being disposed of at the facility. Such recordkeeping, testing and reporting requirements shall require disclosure of proprietary information only as is necessary to carry out the purposes of this chapter. At least once every ten years, the Director shall review and issue written findings on the environmental compliance history of each permittee, material changes, if any, in key personnel, and technical limitations, standards, or regulations on which the original permit was based. The time period for review of each category of permits shall be established by Board regulation. If, upon such review, the Director finds that repeated material or substantial violations of the permittee or material changes in the permittee's key personnel would make continued operation of the facility not in the best interests of human health or the environment, the Director shall amend or revoke the permit, in accordance herewith. Whenever such review is undertaken, the Director may amend the permit to include additional limitations, standards, or conditions when the technical limitations, standards, or regulations on which the original permit was based have been changed by statute or amended by regulation or when any of the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any

305 permit for any of the grounds listed under subsection A of § 10.1-1409.

306 F. There shall exist no right to operate a landfill or other facility for the disposal, treatment or
307 storage of nonhazardous solid waste or hazardous waste within the Commonwealth. Permits for solid
308 waste management facilities shall not be transferable except as authorized in regulations promulgated by
309 the Board. The issuance of a permit shall not convey or establish any property rights or any exclusive
310 privilege, nor shall it authorize any injury to private property or any invasion of personal rights or any
311 infringement of federal, state, or local law or regulation.

312 G. No person shall dispose of solid waste in an open dump or dispose of or manage solid waste in
313 an unpermitted facility, including by disposing, causing to be disposed, or arranging for the disposal of
314 solid waste upon a property for which the Director has not issued a permit and that is not otherwise
315 exempt from permitting requirements.

316 H. No person shall own, operate or allow to be operated on his property an open dump.

317 I. No person shall allow waste to be disposed of on his property without a permit. Any person who
318 removes trees, brush, or other vegetation from land used for agricultural or forestal purposes shall not be
319 required to obtain a permit if such material is deposited or placed on the same or other property of the
320 same landowner from which such materials were cleared. The Board shall by regulation provide for
321 other reasonable exemptions from permitting requirements for the disposal of trees, brush and other
322 vegetation when such materials are removed for agricultural or forestal purposes.

323 When promulgating any regulation pursuant to this section, the Board shall consider the character of
324 the land affected, the density of population, and the volume of waste to be disposed, as well as other
325 relevant factors.

326 J. No permit shall be required pursuant to this section for recycling or for temporary storage
327 incidental to recycling. As used in this subsection, "recycling" means any process whereby material
328 which would otherwise be solid waste is used or reused, or prepared for use or reuse, as an ingredient in
329 an industrial process to make a product, or as an effective substitute for a commercial product.

330 K. The Board shall provide for reasonable exemptions from the permitting requirements, both
331 procedural and substantive, in order to encourage the development of yard waste composting facilities.
332 To accomplish this, the Board is authorized to exempt such facilities from regulations governing the
333 treatment of waste and to establish an expedited approval process. Agricultural operations receiving only
334 yard waste for composting shall be exempt from permitting requirements provided that (i) the
335 composting area is located not less than 300 feet from a property boundary, is located not less than
336 1,000 feet from an occupied dwelling not located on the same property as the composting area, and is
337 not located within an area designated as a flood plain as defined in § 10.1-600; (ii) the agricultural
338 operation has at least one acre of ground suitable to receive yard waste for each 150 cubic yards of
339 finished compost generated; (iii) the total time for the composting process and storage of material that is
340 being composted or has been composted shall not exceed ~~eighteen~~ 18 months prior to its field
341 application or sale as a horticultural or agricultural product; and (iv) the owner or operator of the
342 agricultural operation notifies the Director in writing of his intent to operate a yard waste composting
343 facility and the amount of land available for the receipt of yard waste. In addition to the requirements
344 set forth in clauses (i) through (iv) of the preceding sentence, the owner and operator of any agricultural
345 operation that receives more than 6,000 cubic yards of yard waste generated from property not within
346 the control of the owner or the operator in any ~~twelve-month~~ 12-month period shall be exempt from
347 permitting requirements, provided ~~(i) that~~ (a) the owner and operator submit to the Director an annual
348 report describing the volume and types of yard waste received by such operation for composting and ~~(ii)~~
349 (b) the operator ~~shall certify~~ certifies that the yard waste composting facility complies with local
350 ordinances. The Director shall establish a procedure for the filing of the notices, annual reports, and
351 certificates required by this subsection and shall prescribe the forms for the annual reports and
352 certificates. Nothing contained in this article shall prohibit the sale of composted yard waste for
353 horticultural or agricultural use, provided that any composted yard waste sold as a commercial fertilizer
354 with claims of specific nutrient values, promoting plant growth, or of conditioning soil shall be sold in
355 accordance with Chapter 36 (§ 3.2-3600 et seq.) of Title 3.2. As used in this subsection, "agricultural
356 operation" shall have the same meaning ascribed to it in § 3.2-300.

357 The operation of a composting facility as provided in this subsection shall not relieve the owner or
358 operator of such a facility from liability for any violation of this chapter.

359 L. The Board shall provide for reasonable exemptions from the permitting requirements, both
360 procedural and substantive, in order to encourage the development of facilities for the decomposition of
361 vegetative waste. To accomplish this, the Board shall approve an expedited approval process. As used in
362 this subsection, the decomposition of vegetative waste means a natural aerobic or anaerobic process,
363 active or passive, which results in the decay and chemical breakdown of the vegetative waste. Nothing
364 in this subsection shall be construed to prohibit a city or county from exercising its existing authority to
365 regulate such facilities by requiring, among other things, permits and proof of financial security.

366 M. In receiving and processing applications for permits required by this section, the Director shall

assign top priority to applications which (i) agree to accept nonhazardous recycling residues and (ii) pledge to charge tipping fees for disposal of nonhazardous recycling residues which do not exceed those charged for nonhazardous municipal solid waste. Applications meeting these requirements shall be acted upon no later than six months after they are deemed complete.

N. Every solid waste management facility shall be operated in compliance with the regulations promulgated by the Board pursuant to this chapter. To the extent consistent with federal law, those facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical design capacity, provided that the facility is in compliance with the requirements for liners and leachate control in effect at the time of permit issuance, and further provided that on or before October 9, 1993, the owner or operator of the solid waste management facility submits to the Director:

1. An acknowledgement that the owner or operator is familiar with state and federal law and regulations pertaining to solid waste management facilities operating after October 9, 1993, including postclosure care, corrective action and financial responsibility requirements;

2. A statement signed by a registered professional engineer that he has reviewed the regulations established by the Department for solid waste management facilities, including the open dump criteria contained therein; that he has inspected the facility and examined the monitoring data compiled for the facility in accordance with applicable regulations; and that, on the basis of his inspection and review, he has concluded that: (i) the facility is not an open dump, (ii) the facility does not pose a substantial present or potential hazard to human health and the environment, and (iii) the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

3. A statement signed by the owner or operator (i) that the facility complies with applicable financial assurance regulations and (ii) estimating when the facility will reach its vertical design capacity.

The facility may not be enlarged prematurely to avoid compliance with state or federal regulations when such enlargement is not consistent with past operating practices, the permit or modified operating practices to ensure good management.

Facilities which are authorized by this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall be as follows:

Category 1: Nonhazardous industrial waste facilities that are located on property owned or controlled by the generator of the waste disposed of in the facility;

Category 2: Nonhazardous industrial waste facilities other than those that are located on property owned or controlled by the generator of the waste disposed of in the facility, provided that the facility accepts only industrial waste streams which the facility has lawfully accepted prior to July 1, 1995, or other nonhazardous industrial waste as approved by the Department on a case-by-case basis; and

Category 3: Facilities that accept only construction-demolition-debris waste as defined in the Board's regulations.

The Director may prohibit or restrict the disposal of waste in facilities described in this subsection which contains hazardous constituents as defined in applicable regulations which, in the opinion of the Director, would pose a substantial risk to health or the environment. Facilities described in category 3 may expand laterally beyond the waste disposal boundaries existing on October 9, 1993, provided that there is first installed, in such expanded areas, liners and leachate control systems meeting the applicable performance requirements of the Board's regulations, or a demonstration is made to the satisfaction of the Director that such facilities satisfy the applicable variance criteria in the Board's regulations.

Owners or operators of facilities which are authorized under this subsection to accept waste for disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded disposal areas maintain setback distances applicable to such facilities under the Board's current regulations and local ordinances. Prior to the expansion of any facility described in category 2 or 3, the owner or operator shall provide the Director with written notice of the proposed expansion at least sixty 60 days prior to commencement of construction. The notice shall include recent groundwater monitoring data sufficient to determine that the facility does not pose a threat of contamination of groundwater in a manner constituting an open dump or creating a substantial present or potential hazard to human health or the environment. The Director shall evaluate the data included with the notification and may advise the owner or operator of any additional requirements that may be necessary to ensure compliance with applicable laws and prevent a substantial present or potential hazard to health or the environment.

Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in compliance with regulations promulgated by the Board.

Nothing in this subsection shall alter any requirement for groundwater monitoring, financial responsibility, operator certification, closure, postclosure care, operation, maintenance or corrective action imposed under state or federal law or regulation, or impair the powers of the Director pursuant to

428 § 10.1-1409.

429 O. Portions of a permitted solid waste management facility used solely for the storage of household
430 hazardous waste may store household hazardous waste for a period not to exceed one year, provided that
431 such wastes are properly contained and are segregated to prevent mixing of incompatible wastes.

432 P. Any permit for a new municipal solid waste landfill, and any permit amendment authorizing
433 expansion of an existing municipal solid waste landfill, shall incorporate conditions to require that
434 capacity in the landfill will be available to localities within the Commonwealth that choose to contract
435 for and reserve such capacity for disposal of such localities' solid waste in accordance with solid waste
436 management plans developed by such localities pursuant to § 10.1-1411. This provision shall not apply
437 to permit applications from one or more political subdivisions for new landfills or expanded landfills
438 that will only accept municipal solid waste generated within the political subdivision or subdivisions'
439 jurisdiction or municipal solid waste generated within other political subdivisions pursuant to an
440 interjurisdictional agreement.

441 Q. No application for coverage under a permit-by-rule or for modification of coverage under a
442 permit-by-rule shall be complete unless it contains certification from the governing body of the locality
443 in which the facility is to be located that the facility is consistent with the solid waste management plan
444 developed and approved in accordance with § 10.1-1411.

445 **§ 10.1-1437.1. Community and environmental justice outreach.**

446 A. *Beginning July 1, 2021, no notice of intent to file an application for certification of site approval*
447 *for a hazardous waste facility shall be considered complete unless the applicant has completed the*
448 *requirements of this section.*

449 B. *Prior to submitting the notice of intent to the Department, the applicant shall conduct at least one*
450 *public meeting in the locality where the facility is proposed to be located. At least 60 days prior to the*
451 *public meeting, the applicant shall:*

452 1. *Publish a notice, in English and Spanish, in at least one local paper of general circulation in the*
453 *locality where the facility is proposed to be located. Such notice shall be printed in English and Spanish*
454 *and shall (i) contain a statement of the estimated impact of the proposed facility; (ii) advise the public*
455 *where to obtain information regarding the proposed facility; (iii) include a statement that the applicant*
456 *will hold a public meeting where oral comments will be accepted and setting forth the date, time, and*
457 *location of the public meeting; and (iv) provide an address and email address where the public can*
458 *provide written comments to the applicant regarding the proposed facility and its proposed siting.*

459 2. *Post such notice required by subdivision 1, in English and Spanish, on a social media platform*
460 *targeted to the area where the facility is to be located and mail the notice, in English and Spanish, to*
461 *(i) the chief elected official of, chief administrative officer of, and planning district commission for the*
462 *locality where the facility is proposed to be located; (ii) every public library, United States post office,*
463 *and public school located within a five-mile radius of the proposed facility; (iii) any federally*
464 *recognized and state-recognized Indian tribe within a five-mile radius of the proposed facility; (iv) the*
465 *primary address of any owner and any inhabitant of any parcel of real property that is depicted as*
466 *within a five-mile radius of the proposed facility on the current real estate tax assessment maps of the*
467 *locality where the facility or project is proposed to be located; (v) if the boundary of another Virginia*
468 *locality is located within a three-mile radius of the proposed facility, the chief elected official of, chief*
469 *administrative officer of, and planning district commission for such locality; and (vi) the Department.*

470 3. *Post a sign, in English and Spanish, at the site of the proposed facility that is visible and legible*
471 *from the public right-of-way in both directions of travel. The sign shall remain in place until there has*
472 *been final action on the permit application. The sign shall be made of weather-resistant materials and*
473 *shall be sturdily mounted so as to be capable of remaining in place and legible throughout the period*
474 *that the sign is required at the site. The sign shall be temporary, nonilluminated, and four square feet*
475 *or more in area and shall contain only the following information:*

476 a. *A statement of what type of facility or activity is proposed at the site;*

477 b. *The name of the applicant;*

478 c. *The telephone number of an individual designated by the applicant to respond to inquiries; and*

479 d. *The date, time, and location of the public meeting.*

480 *The applicant shall make a good faith effort to replace or repair any sign that has been removed*
481 *from the proposed facility or that has been damaged so as to render any of its required information*
482 *illegible.*

483 *The Department may grant a waiver to the requirements in this section regarding signage, or require*
484 *alternative posting options, due to extenuating circumstances or where requirements conflict with local*
485 *government ordinances or another requirement regulating the use of signs.*

486 C. *At the public meeting, the applicant shall provide information about the proposed facility,*
487 *including the potential associated environmental impacts. The permit applicant shall accept written and*
488 *oral comments during the public meeting and shall accept written comments during the entire period of*
489 *the public notice and for 15 days after the close of the public meeting.*

D. The applicant shall transcribe the public meeting and shall submit the transcript, along with any written comments received and a report responding to any comments received, to the Department with its application materials, including a certification of compliance with the requirements of this section and materials demonstrating such to the Department's satisfaction.

§ 62.1-44.6:1. When new individual permit application considered complete; community and environmental justice outreach.

A. Beginning July 1, 2021, and except as provided in subsections C and D, no application for a new individual Virginia Pollutant Discharge Elimination System permit, new individual Virginia Water Protection permit, new individual Virginia Stormwater Management Program permit, or new individual Virginia Pollution Abatement permit shall be considered complete unless the applicant has completed the requirements of this section. This section shall not apply to a general permit or a permit by rule.

B. Prior to submitting the notice of intent to the Department the applicant shall conduct at least one public meeting in the locality where the facility or project is proposed to be located. At least 60 days prior to the public meeting, the applicant shall:

1. Publish a notice, in English and Spanish, in at least one local paper of general circulation in the locality where the facility or project is proposed to be located. Such notice shall be printed in English and Spanish and shall (i) contain a statement of the estimated impact of the proposed facility or project; (ii) advise the public where to obtain information regarding its proposal; (iii) include a statement that the applicant will hold a public meeting where oral comments will be accepted and setting forth the date, time, and location of the public meeting; and (iv) provide an address and email address where the public can provide written comments to the applicant regarding the proposal.

2. Post such notice required by subdivision 1, in English and Spanish, on a social media platform targeted to the area where the facility or project is to be located and mail the notice, in English and Spanish, to (i) the chief elected official of, chief administrative officer of, and planning district commission for the locality where the facility or project is proposed to be located; (ii) every public library, United States post office, and public school located within a five-mile radius of the proposed facility or project; (iii) any federally recognized and state-recognized Indian tribe within a five-mile radius of the proposed facility or project; (iv) the primary address of any owner and any inhabitant of any parcel of real property that is depicted as within a five-mile radius of the proposed facility or project on the current real estate tax assessment maps of the locality where the facility or project is proposed to be located; (v) if the boundary of another Virginia locality is located within a three-mile radius of the proposed facility or project, the chief elected official of, chief administrative officer of, and planning district commission for such locality; and (vi) the Department.

3. Post a sign, in English and Spanish, at the site of the proposed facility or project that is visible and legible from the public right-of-way in both directions of travel. The sign shall remain in place until there has been final action on the permit application. The sign shall be made of weather-resistant materials and shall be sturdily mounted so as to be capable of remaining in place and legible throughout the period that the sign is required at the site. The sign shall be temporary, nonilluminated, and four square feet or more in area and shall contain only the following information:

- a. A statement of what type of facility or activity is proposed at the site;
- b. The name of the applicant;
- c. The telephone number of an individual designated by the applicant to respond to inquiries; and
- d. The date, time, and location of the public meeting.

The applicant shall make a good faith effort to replace or repair any sign that has been removed from the facility or project site or that has been damaged so as to render any of its required information illegible.

The Department may grant a waiver to the requirements in this section regarding signage, or require alternative posting options, due to extenuating circumstances or where requirements conflict with local government ordinances or another requirement regulating the use of signs.

C. At the public meeting, the applicant shall provide information about the facility or project, including the potential associated environmental impacts. The permit applicant shall accept written and oral comments during the public meeting and shall accept written comments during the entire period of the public notice and for 15 days after the close of the public meeting.

D. The applicant shall transcribe the public meeting and shall submit the transcript, along with any written comments received and a report responding to any comments received, to the Department with its application materials, including a certification of compliance with the requirements of this section and materials demonstrating such to the Department's satisfaction.

§ 62.1-266.1. Community and environmental justice outreach.

A. Beginning July 1, 2021, no application for an individual ground water withdrawal permit for a new ground water withdrawal shall be considered complete unless the applicant has completed the requirements of this section. This section shall not apply to a general permit or a permit by rule.

551 B. Prior to submitting the notice of intent to the Department the applicant shall conduct at least one
552 public meeting in the locality where the facility is proposed to be located. At least 60 days prior to the
553 public meeting, the applicant shall:

554 1. Publish a notice, in English and Spanish, in at least one local paper of general circulation in the
555 locality where the facility is proposed to be located. Such notice shall be printed in English and Spanish
556 and shall (i) contain a statement of the estimated impact of the proposed facility; (ii) advise the public
557 where to obtain information regarding its proposal; (iii) include a statement that the applicant will hold
558 a public meeting where oral comments will be accepted and setting forth the date, time, and location of
559 the public meeting; and (iv) provide an address and email address where the public can provide written
560 comments to the applicant regarding the proposal.

561 2. Post such notice required by subdivision 1, in English and Spanish, on a social media platform
562 targeted to the area where the facility is to be located and mail the notice, in English and Spanish, to
563 (i) the chief elected official of, chief administrative officer of, and planning district commission for the
564 locality where the facility is proposed to be located; (ii) every public library, United States post office,
565 and public school located within a five-mile radius of the proposed facility; (iii) any federally
566 recognized and state-recognized Indian tribe within a five-mile radius of the proposed facility; (iv) the
567 primary address of any owner and any inhabitant of any parcel of real property that is depicted as
568 within a five-mile radius of the proposed facility on the current real estate tax assessment maps of the
569 locality where the facility or project is proposed to be located; (v) if the boundary of another Virginia
570 locality is located within a three-mile radius of the proposed facility, the chief elected official of, chief
571 administrative officer of, and planning district commission for such locality; and (vi) the Department.

572 3. Post a sign, in English and Spanish, at the site of the proposed facility that is visible and legible
573 from the public right-of-way in both directions of travel. The sign shall remain in place until there has
574 been final action on the permit application. The sign shall be made of weather-resistant materials and
575 shall be sturdily mounted so as to be capable of remaining in place and legible throughout the period
576 that the sign is required at the site. The sign shall be temporary, nonilluminated, and four square feet
577 or more in area and shall contain only the following information:

578 a. A statement of what type of facility or activity is proposed at the site;

579 b. The name of the applicant;

580 c. The telephone number of an individual designated by the applicant to respond to inquiries; and

581 d. The date, time, and location of the public meeting.

582 The applicant shall make a good faith effort to replace or repair any sign that has been removed
583 from the proposed facility site or that has been damaged so as to render any of its required information
584 illegible.

585 The Department may grant a waiver to the requirements in this section regarding signage, or require
586 alternative posting options, due to extenuating circumstances or where requirements conflict with local
587 government ordinances or another requirement regulating the use of signs.

588 C. At the public meeting, the applicant shall provide information about the facility, including the
589 potential associated environmental impacts. The permit applicant shall accept written and oral
590 comments during the public meeting and shall accept written comments during the entire period of the
591 public notice and for 15 days after the close of the public meeting.

592 D. The applicant shall transcribe the public meeting and shall submit the transcript, along with any
593 written comments received and a report responding to any comments received, to the Department with
594 its application materials, including a certification of compliance with the requirements of this section
595 and materials demonstrating such to the Department's satisfaction.