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HOUSE BILL NO. 2221

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on February 3, 2021)

(Patron Prior to Substitute—Delegate Hayes)

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.

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. For any application received on or after July 1, 2021, no application for a permit for (i) the construction of a new major source, (ii) a major modification to an existing source, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas, (v) a fossil fuel-fired electric generating facility with a capacity of more than 25 megawatts, (vi) a sludge or solid waste incinerator or combustor, or (vii) a medical waste incinerator shall be considered complete unless the applicant has completed the requirements of subsections B, C, and D.

For any application received on or after July 1, 2021, no application by a new stationary source for a minor new source review permit that is not subject to subsections B, C, and D shall be considered complete unless the applicant has completed the requirements of subsection E.

This section shall not apply to a permit reissuance, coverage under a general permit, or permit by rule.

B. Prior to submitting such application to the Department for (i) the construction of a new major source, (ii) a major modification to an existing source, (iii) a new fossil fuel-fired compressor station facility used to transport natural gas, (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility used to transport natural gas, (v) a fossil fuel-fired electric generating facility with a capacity of more than 25 megawatts, (vi) a sludge or solid waste incinerator or combustor, or (vii) a medical waste incinerator, 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 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 proposed to be located and make a good faith effort to 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) every federally recognized and state-recognized Indian tribe in Virginia; (iv) the mailing address for any parcel of real property that is depicted as within a three-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, including a request to any property owner that is a residential landlord to post a copy of such notice in a common area, if available; (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

60 *there has been final action on the permit application. The sign shall be made of weather-resistant*
61 *materials and shall be sturdily mounted so as to be capable of remaining in place and legible*
62 *throughout the period that the sign is required at the site. The sign shall be temporary, nonilluminated,*
63 *and four square feet or more in area and shall contain only the following information:*

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

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

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

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

78 *D. The applicant shall summarize oral comments received during the public meeting and shall submit*
79 *the summary of oral comments, along with any written comments received and a report responding to*
80 *any comments received, to the Department with its application materials, including a certification of*
81 *compliance with the requirements of this section and materials demonstrating such to the Department's*
82 *satisfaction.*

83 *E. For any application received on or after July 1, 2021, at least 60 days prior to submitting an*
84 *application to the Department for a minor new source review permit that is not subject to the provisions*
85 *of subsections B, C, and D, any new stationary source applicant shall:*

86 *1. Make a good faith effort to mail a notice of the proposed minor source to (i) the chief elected*
87 *official of, chief administrative officer of, and planning district commission for the locality where the*
88 *facility or project is proposed to be located; (ii) the mailing address for any parcel of real property that*
89 *is depicted as adjacent to the proposed facility or project on the current real estate tax assessment maps*
90 *of the locality where the facility or project is proposed to be located, including a request to any*
91 *property owner that is a residential landlord to post a copy of such notice in a common area, if*
92 *available; and (iii) the Department. Such notice shall (a) describe the activity proposed, (b) advise the*
93 *public where to obtain information regarding the proposal, and (c) provide an address and email*
94 *address where the applicant will accept written comments regarding the proposal for a period of at*
95 *least 30 days.*

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

- 102 *a. A statement of what type of facility or activity is proposed at the site;*
- 103 *b. The name of the applicant; and*
- 104 *c. The telephone number of an individual designated by the applicant to respond to inquiries.*

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

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

111 *The applicant shall submit any written comments received and a report responding to any comments*
112 *received, to the Department with its application materials, including a certification of compliance with*
113 *the requirements of this section and materials demonstrating such to the Department's satisfaction.*

114 *The provisions of this subdivision shall not apply to (i) sources that by themselves or in or on a*
115 *piece of equipment are portable or transportable and are designed to be capable of being carried or*
116 *moved from one location to another or (ii) new stationary sources that do not have the physical or*
117 *operational capacity to emit more than 50 tons per year of particulate matter or 100 tons per year of*
118 *any other single air pollutant, except that such new stationary source that is identified in subdivision A*
119 *as required to meet the requirements of subdivisions B, C, and D shall be subject to the requirements of*
120 *those subsections.*

121 *Any public meeting required to be conducted by the applicant pursuant to this section may be held*

by electronic communication means when the Governor has declared a state of emergency pursuant to § 44-146.17, provided that the nature of the declared emergency makes it impracticable or unsafe to assemble in a single location in the locality where the facility or project is proposed and such electronic communication meeting is consistent with the same rules or requirements that would apply to meetings of a state public body during the declared state of emergency.

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

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

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

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

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

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

4. If the applicant proposes to operate a new 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 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 days prior to the public meeting date.

The provisions of this subdivision shall not apply to applicants for a permit to operate a new captive industrial landfill or a new construction-demolition-debris landfill.

For any notice of intent received on or after July 1, 2021, an applicant proposing to operate a new sanitary landfill shall comply with the requirements of subdivision 10, and such compliance shall be deemed to meet the requirements of this subdivision;

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 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.

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

For any notice of intent received on or after July 1, 2021, an applicant that is a local government or public authority that proposes to operate a new sanitary landfill shall comply with the requirements of subdivision 10, and such compliance shall be deemed to meet the requirements of this subdivision;

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

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

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

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

10. For any notice of intent received on or after July 1, 2021, if the applicant proposes to operate a new landfill, except an applicant for coverage under a general permit or permit by rule, a statement, including a description of the steps taken by the applicant to seek the comments of the residents of the area where the landfill is proposed to be located, regarding the siting and operation of the proposed landfill. The public comment steps shall be taken prior to filing with the Department the notice of intent to apply for a permit for the landfill as required by the Department's solid waste management regulations. The public comment steps shall include publication of a public notice, in English and Spanish, once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the landfill 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 landfill. The public notice shall include a statement of the applicant's intent to apply for a permit to operate the proposed landfill; the proposed landfill 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 landfill. The first publication of the public notice shall be at least 60 days prior to the public meeting date.

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 is to be located and make a good faith effort to 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 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; (iii) every federally recognized and state-recognized Indian tribe in Virginia; (iv) the mailing address for any parcel of real property that is depicted as within a three-mile radius of the proposed landfill on the current real estate tax assessment maps of the locality where the landfill is proposed to be located, and including a request to any property owner that is a residential landlord to post a copy of such notice in a common area, if available; (v) if the boundary of another Virginia locality is located within a three-mile radius of the proposed landfill, 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 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 site or that has been damaged so as to render any of its required information illegible.

The Department may grant a waiver of 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, 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 summarize oral comments received during the public meeting and shall submit the summary of oral comments, 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 subdivision and materials demonstrating such to the Department's satisfaction.

Any public meeting required to be conducted by the applicant pursuant to this section may be held by electronic communication means when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that the nature of the declared emergency makes it impracticable or unsafe to assemble in a single location in the locality where the facility or project is proposed and such electronic communication meeting is consistent with the same rules or requirements that would apply to meetings of a state public body during the declared state of emergency.

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

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

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

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

I. No person shall allow waste to be disposed of on his property without a permit. Any person who

removes trees, brush, or other vegetation from land used for agricultural or forestal purposes shall not be required to obtain a permit if such material is deposited or placed on the same or other property of the same landowner from which such materials were cleared. The Board shall by regulation provide for other reasonable exemptions from permitting requirements for the disposal of trees, brush and other vegetation when such materials are removed for agricultural or forestal purposes.

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

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

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

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

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

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

429 regulations pertaining to solid waste management facilities operating after October 9, 1993, including
430 postclosure care, corrective action and financial responsibility requirements;

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

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

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

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

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

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

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

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

462 Owners or operators of facilities which are authorized under this subsection to accept waste for
463 disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded
464 disposal areas maintain setback distances applicable to such facilities under the Board's current
465 regulations and local ordinances. Prior to the expansion of any facility described in category 2 or 3, the
466 owner or operator shall provide the Director with written notice of the proposed expansion at least ~~sixty~~
467 60 days prior to commencement of construction. The notice shall include recent groundwater monitoring
468 data sufficient to determine that the facility does not pose a threat of contamination of groundwater in a
469 manner constituting an open dump or creating a substantial present or potential hazard to human health
470 or the environment. The Director shall evaluate the data included with the notification and may advise
471 the owner or operator of any additional requirements that may be necessary to ensure compliance with
472 applicable laws and prevent a substantial present or potential hazard to health or the environment.

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

475 Nothing in this subsection shall alter any requirement for groundwater monitoring, financial
476 responsibility, operator certification, closure, postclosure care, operation, maintenance or corrective action
477 imposed under state or federal law or regulation, or impair the powers of the Director pursuant to
478 § 10.1-1409.

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

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

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

§ 10.1-1437.1. Community and environmental justice outreach.

A. For any notice of intent received on or after July 1, 2021, no notice of intent to file an application for certification of site approval for a hazardous waste facility shall be considered complete unless the applicant has completed the requirements of this section.

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 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 is proposed to be located. Such notice shall (i) contain a statement of the estimated impact of the proposed facility; (ii) advise the public where to obtain information regarding the proposed facility; (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 proposed facility and its proposed siting.

2. Post such notice required by subdivision 1, in English and Spanish, on a social media platform targeted to the area where the facility is to be located and make a good faith effort to 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 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; (iii) every federally recognized and state-recognized Indian tribe in Virginia; (iv) the mailing address for any parcel of real property that is depicted as within a three-mile radius of the proposed facility on the current real estate tax assessment maps of the locality where the facility or project is proposed to be located, and including a request to any property owner that is a residential landlord to post a copy of such notice in a common area, if available; (v) if the boundary of another Virginia locality is located within a three-mile radius of the proposed facility, 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 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 that has been damaged so as to render any of its required information illegible.

The Department may grant a waiver of 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 proposed facility, 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 summarize oral comments received during the public meeting and shall submit the summary of oral comments, along with any written comments received and a report responding to any comments received, to the Department with its notice of intent, including a certification of compliance with the requirements of this section and materials demonstrating such to the Department's satisfaction.

E. Any public meeting required to be conducted by the applicant pursuant to this section may be held by electronic communication means when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that the nature of the declared emergency makes it impracticable or unsafe to assemble in a single location in the locality where the facility or project is proposed and such electronic communication meeting is consistent with the same rules or requirements that would apply to meetings of a state public body during the declared state of emergency.

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

A. For any application received on or after July 1, 2021, and except as provided in subsections E, F, and G, no application for a (i) new individual Virginia Pollutant Discharge Elimination System permit, (ii) new individual Virginia Water Protection permit, or (iii) 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 permit reissuance, coverage under a general permit, or permit by rule.

B. Prior to submitting such application 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 (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 make a good faith effort to 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) every federally recognized and state-recognized Indian tribe in Virginia; (iv) the mailing address for any parcel of real property that is depicted as within a three-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, and including a request to any property owner that is a residential landlord to post a copy of such notice in a common area, if available; (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 of 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 proposed facility or project, including the potential associated environmental impacts. The 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 summarize oral comments received during the public meeting and shall submit the summary of oral comments, 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.

E. The requirements of this section shall not apply to any individual Virginia Pollutant Discharge Elimination System or Virginia Pollution Abatement permit application for the land application of treated sewage, stabilized sewage sludge, or stabilized septage or for the distribution and marketing of sewage sludge. This exemption shall not apply to any other activity that may be included in the permit application.

F. The requirements of this section shall not apply to any individual Virginia Pollutant Discharge

Elimination System or Virginia Stormwater Management Program permit application for stormwater discharges from a municipal separate storm sewer system or MS4.

G. The requirements of this section shall not apply to any individual Virginia Water Protection permit application for a surface water withdrawal that does not include construction of a reservoir.

H. The requirements of this section shall not apply to any individual Virginia Pollutant Discharge Elimination System or individual Virginia Pollution Abatement permit held by a farmer if such a permit is necessary for the operation of the farming activities.

I. Any public meeting required to be conducted by the applicant pursuant to this section may be held by electronic communication means when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that the nature of the declared emergency makes it impracticable or unsafe to assemble in a single location in the locality where the facility or project is proposed and such electronic communication meeting is consistent with the same rules or requirements that would apply to meetings of a state public body during the declared state of emergency.

§ 62.1-266.1. Community and environmental justice outreach.

A. For any application received on or after July 1, 2021, no application for (i) an individual ground water withdrawal permit for a new ground water withdrawal of 1.5 million gallons per day or more or (ii) an individual ground water withdrawal permit for a new ground water withdrawal, regardless of volume, for a fossil fuel-fired electric generating facility with a capacity of more than 25 megawatts or a fossil fuel-fired compressor station facility used to transport natural gas shall be considered complete unless the applicant has completed the requirements of this section. This section shall not apply to a permit reissuance, coverage under a general permit, or permit by rule.

B. Prior to submitting such application to the Department, the applicant shall conduct at least one public meeting in the locality where the facility 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 is proposed to be located. Such notice shall (i) contain a statement of the estimated impact of the proposed facility; (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 is proposed to be located and make a good faith effort to 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 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; (iii) every federally recognized and state-recognized Indian tribe in Virginia; (iv) the mailing address for any parcel of real property that is depicted as within a three-mile radius of the proposed facility on the current real estate tax assessment maps of the locality where the facility or project is proposed to be located, and including a request to any property owner that is a residential landlord to post a copy of such notice in a common area, if available; (v) if the boundary of another Virginia locality is located within a three-mile radius of the proposed facility, 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 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 site or that has been damaged so as to render any of its required information illegible.

The Department may grant a waiver of 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.

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

679 D. The applicant shall summarize oral comments received during the public meeting and shall submit
680 the summary of oral comments, along with any written comments received and a report responding to
681 any comments received, to the Department with its application materials, including a certification of
682 compliance with the requirements of this section and materials demonstrating such to the Department's
683 satisfaction.

684 E. Any public meeting required to be conducted by the applicant pursuant to this section may be
685 held by electronic communication means when the Governor has declared a state of emergency in
686 accordance with § 44-146.17, provided that the nature of the declared emergency makes it impracticable
687 or unsafe to assemble in a single location in the locality where the facility or project is proposed and
688 such electronic communication meeting is consistent with the same rules or requirements that would
689 apply to meetings of a state public body during the declared state of emergency.