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HOUSE BILL NO. 1216

Offered January 25, 1994

A BILL to amend and reenact § 10.1-1425.10 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 10.1-1425.11:1 and 10.1-1425.11:2, relating to pollution prevention planning by state agencies.

Patrons—Plum, Keating, Puller, Scott, Van Landingham and Van Yahres; Senators: Houck and Howell

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1425.10 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1425.11:1 and 10.1-1425.11:2 as follows:

§ 10.1-1425.10. Definition.

As used in this article, unless the context requires a different meaning:

"~~pollution~~ *Pollution prevention*" means eliminating or reducing the use, generation or release at the source of environmental waste. Methods of pollution prevention include, but are not limited to, equipment or technology modifications; process or procedure modifications; reformulation or redesign of products; substitution of raw materials; improvements in housekeeping, maintenance, training, or inventory control; and closed-loop recycling, on-site process-related recycling, reuse or extended use of any material utilizing equipment or methods which are an integral part of a production process. The term shall not include any practice which alters the physical, chemical, or biological characteristics or the volume of an environmental waste through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service, and shall not include treatment, increased pollution control, off-site or nonprocess-related recycling, or incineration.

"*Toxic or hazardous substance*" means (i) a chemical identified on the Toxic Chemical List established pursuant to § 313 of the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq. (P.L. 99-499), or (ii) a chemical listed pursuant to §§ 101 (14) or 102 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (P.L. 92-500).

§ 10.1-1425.11:1. Agency pollution prevention plans.

A. Each agency of the Commonwealth which uses or generates more than a minimal amount of toxic or hazardous substances, or which generates any hazardous waste, shall prepare an agency pollution prevention plan. The plan shall address the reduction of the use or generation of hazardous or toxic substances and the generation of hazardous waste.

B. By January 1, 1996, the Department shall establish criteria for determining whether a minimal amount of toxic or hazardous substances is used or generated. In developing the criteria, the Department shall consider, among other factors, (i) risks to public health and safety posed by the use or release of such substances, (ii) the cost and availability of less toxic substitute materials, and (iii) the cost of preparing and complying with a plan.

C. By January 1, 1996, the Department shall develop criteria and procedures to ensure the orderly preparation and evaluation of agency pollution prevention plans. In developing the criteria and procedures, the Department shall consult with the pollution prevention advisory panel or panels established pursuant to § 10.1-1425.13. The criteria and procedures shall require the plans to include, among such other things as may be determined advisable, the following:

1. A study which evaluates the potential for any changes in production processes or raw materials, or both, that reduce, avoid, or eliminate the use of toxic or hazardous substances and thereby reduce the release or generation of toxic or hazardous substances or the release of hazardous waste;

2. Five-year numeric goals for pollution prevention initiatives which reduce the release or generation of hazardous or toxic substances or the release of hazardous waste;

3. Options for reducing the use, generation or release of toxic or hazardous substances; and

4. A description of those options the agency will implement during the next five years to achieve its goals and a schedule for implementing the options.

D. Upon completing a plan, the head of the agency shall sign the plan and submit it to the Department.

E. Plans shall be completed and submitted within two years following the development of the criteria and procedures by the Department pursuant to subsection C.

F. Agencies shall prepare and submit to the Department annual progress reports in accordance with criteria and procedures developed by the Department. The annual progress reports shall include a

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60 description of the progress made toward achieving the specific performance goals established in the
61 agency's plan.

62 G. Agency pollution prevention plans shall be updated and submitted to the Department every five
63 years.

64 H. An agency with multiple facilities using processes that are substantially similar may prepare a
65 single plan addressing all or any lesser number of the facilities.

66 I. An environmental impact report prepared pursuant to § 10.1-1188 shall include an agency
67 pollution prevention plan addressing the operations of the major state project.

68 § 10.1-1425.11:2. Review of agency protection plans.

69 A. The Department shall review every agency pollution prevention plan and annual progress report
70 submitted pursuant to § 10.1-1425.11:1 to determine whether the plan or report complies with the
71 criteria and procedures developed by the Department.

72 B. If a state agency fails to comply with the requirements regarding the preparation of a plan or
73 annual progress report, the Department shall notify the agency of the failure and shall identify specific
74 deficiencies. For the purposes of this section, a deficiency may include a failure to submit a plan or
75 annual progress report, or failure to comply with the criteria and procedures developed by the
76 Department. The Department shall specify a reasonable period of time of not less than ninety days
77 within which the agency shall complete a modified plan or annual progress report addressing the
78 specified deficiencies.

79 C. The Department shall make available for public inspection any plan or annual progress report
80 submitted to the Department.

81 D. The Department shall maintain a record of each plan and annual progress report it reviews, and
82 a record of any plans and annual progress reports it has determined to be inadequate, including
83 descriptions of corrective actions taken. This information shall be made available to the public.

84 E. The Department shall prepare a report every two years, based on information submitted by state
85 agencies in plans and annual progress reports, listing the amount of toxic or hazardous substances used
86 or generated, and the amount of hazardous waste generated, by agencies of the Commonwealth.