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SENATE BILL NO. 1088

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources)

(Patron Prior to Substitute—Senator Hawkins)

Senate Amendments in [] — February 7, 1995

A *BILL to amend and reenact § 32.1-164.5 of the Code of Virginia, relating to sewage sludge application and storage.*

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

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

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

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

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

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

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

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

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

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

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

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

8. Conditions where a nutrient management plan approved by the Department of Conservation and Recreation may be required.

D. The Board of Health shall adopt regulations in accordance with this section not later than October 1, 1994. The Board of Health may adopt, as final, proposed regulations that were the subject of public notice and for which one or more public hearings or informational meetings were held in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) after July 1, 1993, and prior to September 30, 1994.

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

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

G. Any permit, certificate or authorization for the land application, marketing or distribution of sewage sludge issued prior to October 1, 1994, shall remain in effect for the remainder of the term specified in such permit, certificate or authorization. Such permits, certificates and authorizations may be

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60 amended in accordance with the Administrative Process Act (9-6.14:1 et seq.). Any amendment after the
61 adoption of the regulations specified in this section shall be in accordance with such regulations.

62 *H. Local governing bodies may, by ordinance, regulate the land application and storage of sewage*
63 *sludge within their jurisdictions. Land application of sewage sludge for which a permit has been issued*
64 *under the Board's regulations or regulations of the Department of Mines, Minerals and Energy shall not*
65 *be prohibited [for reclamation of mined lands or] in any district which is zoned for agricultural or*
66 *forestal uses [; ~~or for reclamation of mined lands~~] . No local ordinance shall require a permit or*
67 *special exception for land application of sewage sludge which is permitted under this section or impose*
68 *restrictions on the infrequent land application of sewage sludge which are more stringent than the*
69 *regulations [of the Department of Mines, Minerals and Energy or the regulations] adopted by the*
70 *Board pursuant to this section [~~or regulations of the Department of Mines, Minerals and Energy~~] .*
71 *Nothing in this subsection shall restrict or prevent localities from imposing reasonable setback*
72 *requirements to minimize impacts on residential areas where sludge is applied without incorporation*
73 *into the soil or from abating any activity which constitutes a nuisance or violates a local ordinance or*
74 *the Board's regulations.*