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HOUSE BILL NO. 1008

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding a section numbered 10.1-1402.1, relating to issuance of special orders.

Patron—Murphy

Referred to Committee on Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 10.1-1402.1 as follows:****§ 10.1-1402.1. Issuance of special orders.****A. The Board shall have the power to issue special orders to:**

1. Persons that are operating, or are allowing on their property the operation of, an open dump or that is operating a solid waste management facility in a manner that presents a present or potential danger to human health or the environment, to cease and desist from such activity;

2. Persons that have failed to construct facilities in accordance with, or have failed to comply with, plans for the construction of facilities submitted by them to and approved by the Board, to construct the facilities in accordance with or otherwise comply with, the approved plans;

3. Persons that have failed to handle and control waste in accordance with, or have failed to comply with, plans and permits for the handling and control of waste approved by the Board, to handle and control waste in accordance with or otherwise comply with, the approved plans and permits;

4. Persons that have violated or failed to comply with the terms and provisions of any Board order or directive to comply with such terms and provisions;

5. Persons that have contravened duly adopted and promulgated regulations, standards and policies, to cease such contravention and to comply with the regulations, standards and policies; and

6. Require any person to comply with the provisions of this chapter and any Board decision.

B. Such special orders are to be issued only after a hearing with reasonable notice to the affected persons of the time, place and purpose thereof, and they shall become effective not less than five days after service as provided in subsection C. Should the Board find that any person is unreasonably affecting the public health, safety or welfare, the health of animal or plant life, or property, after a reasonable attempt to give notice, the Board shall declare a state of emergency and may issue without a hearing an emergency special order directing the person to cease the activity immediately, and shall within ten days hold a hearing, after reasonable notice as to the time and place thereof to the person, to affirm, modify, amend or cancel the emergency special order. If the Board finds that a person that has been issued a special order or an emergency special order is not complying with the terms thereof, it may proceed in accordance with Article 8 (§ 10.1-1455 et seq.) of this chapter.

C. Any special order issued under the provisions of this section need not be filed with the Secretary of the Commonwealth, but the person to which such special order is directed shall be notified by certified mail, return receipt requested, sent to the last known address of the person, or by personal delivery by an agent of the Board, and the time limits specified shall be counted from the date of receipt.

D. Nothing in this section shall limit the Board's authority to proceed against a person directly under Article 8 (§ 10.1-1455 et seq.) without the prior issuance of an order, special or otherwise.

INTRODUCED

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