

# VIRGINIA ACTS OF ASSEMBLY -- 1997 SESSION

## CHAPTER 581

*An Act to amend and reenact § 62.1-44.15:4 of the Code of Virginia, relating to water quality related notice to localities and property owners.*

[S 969]

Approved March 20, 1997

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-44.15:4 of the Code of Virginia is amended and reenacted as follows:**

§ 62.1-44.15:4. Notification of local governments and property owners.

A. Upon determining that there has been a violation of a regulation promulgated under this chapter and such violation poses an imminent threat to the health, safety or welfare of the public, the Executive Director shall immediately notify the chief administrative officer of any potentially affected local government. Neither the Executive Director, the Commonwealth, nor any employee of the Commonwealth shall be liable for a failure to provide, or a delay in providing, the notification required by this subsection.

B. Upon receiving a nomination of a waterway or segment of a waterway for designation as an exceptional state water pursuant to the Board's antidegradation policy, as required by 40 C.F.R. § 131.12, the Board shall notify each locality in which the waterway or segment lies and shall *make a good faith effort to* provide notice to impacted *riparian* property owners. The written notice shall include, at a minimum: (i) a description of the location of the waterway or segment; (ii) the procedures and criteria for designation as well as the impact of designation; (iii) the name of the person making the nomination; and (iv) the name of a contact person at the Department of Environmental Quality who is knowledgeable about the nomination and the waterway or segment. *Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdictions upon request by the Board.* After receipt of the notice of the nomination localities shall be provided sixty days to comment on the consistency of the nomination with the locality's comprehensive plan.

C. Upon determining that a waterway or any segment of a waterway does not meet its water quality standard use designation as set out in the Board's regulations and as required by § 1313 (d) of the federal Clean Water Act (33 U.S.C. § 1251 et seq.) and 40 C.F.R. § 130.7 (b), the Board shall notify each locality in which the waterway or segment lies. The written notification shall include, at a minimum: (i) a description of the reasons the waters do not meet the water quality standard including specific parameters and criteria not met; (ii) a layman's description of the location of the waters; (iii) the known sources of the pollution; and (iv) the name of a contact person at the Department of Environmental Quality who is knowledgeable about the failure of the waterway or segment to meet the standards. After receipt of the notification, local governments shall have thirty days to comment.

D. Upon receipt of an application for a ~~permit or for a modification of a permit~~ *the issuance of a new or modified permit other than those for agricultural production or aquacultural production activities*, the Board shall ~~cause to be notified~~ *notify*, in writing, the locality wherein the discharge does or is proposed to take place of, at a minimum: (i) the name of the applicant; (ii) the nature of the application and proposed discharge; (iii) *the availability and timing of any comment period*; and ~~(iii)~~ (iv) upon request, any other information known to, or in the possession of, the Board or the Department regarding the applicant not required to be held confidential by this chapter. *The Board shall make a good faith effort to provide this same notice and information to (i) each locality and riparian property owner to a distance one-quarter mile downstream and one-quarter mile upstream or to the fall line whichever is closer on tidal waters, and (ii) each locality and riparian property owner to a distance one-half mile downstream on nontidal waters. Distances shall be measured from the point, or proposed point, of discharge. If the receiving river, at the point or proposed point of discharge, is two miles wide or greater, the riparian property owners on the opposite shore need not be notified. Notice to property owners shall be based on names and addresses taken from local tax rolls. Such names and addresses shall be provided by the Commissioners of the Revenue or the tax assessor's office of the affected jurisdictions upon request by the Board.*

E. Upon the commencement of public notice of an enforcement action pursuant to this chapter, the Board shall notify, in writing, the locality where the alleged offense has or is taking place of: (i) the name of the alleged violator; (ii) the facts of the alleged violation; (iii) the statutory remedies for the alleged violation; (iv) the availability and timing of any comment period; and (v) the name of a contact person at the Department of Environmental Quality who is knowledgeable about the alleged violation.

~~E.~~ F. The comment periods established in subsections B and C shall in no way impact a locality's ability to comment during any additional comment periods established by the Board.