

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 561

An Act to amend and reenact §§ 62.1-245 and 62.1-247 of the Code of Virginia, relating to Surface Water Management Areas; voluntary agreements.

[H 2574]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-245 and 62.1-247 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-245. Agreements among persons withdrawing surface water.

In the administration of this chapter, the Board shall encourage, promote and recognize voluntary agreements among persons withdrawing surface water in the same surface water management area. When the Board finds that any such agreement, executed in writing and filed with the Board, is consistent with the intent, purposes and requirements of this chapter, the Board shall approve the agreement *following a public hearing. The Board shall provide at least sixty days' notice of the public hearing to the public in general and individually to those persons withdrawing surface water in the surface water management area who are not parties to the agreement, and shall make a good faith effort to so notify recreational user groups, conservation organizations and fisheries management agencies. The Board shall be a party to the agreement.* The agreement, until terminated, shall control in lieu of a formal order, rule, ~~or~~ regulation ~~or~~ permit issued by the Board under the provisions of this chapter, *and shall be deemed to be a case decision under the Administrative Process Act (§ 9-6.14:1 et seq.).* Any agreement shall specify the amount of water affected thereby.

Any agreement approved by the Board may include conditions which can result in its amendment or termination by the Board, following a public hearing ~~pursuant to § 9-6.14:7.1~~, if the Board finds that it or its effect is inconsistent with the intent, purposes and requirements of this chapter. Such conditions may include (i) a determination by the Board that the agreement originally approved by the Board will not further the purposes of this chapter, ~~or~~ (ii) a determination by the Board that circumstances have changed such that the agreement originally approved by the Board will no longer further the purposes by this chapter, or (iii) one or more parties to the agreement is not fulfilling its commitments under the agreement. *The Board shall provide at least sixty days' notice of the public hearing to the public in general and individually to those persons withdrawing surface water in the surface water management area who are not parties to the agreement, and shall make a good faith effort to so notify recreational user groups, conservation organizations and fisheries management agencies.*

§ 62.1-247. Use of surface water in surface water management area.

After an area has been declared a surface water management area by an order of the Board, no person shall withdraw or attempt to withdraw any surface water, except for withdrawals exempted under § 62.1-243 *or made pursuant to a voluntary agreement approved by the Board pursuant to § 62.1-245*, without a surface water withdrawal permit issued by the Board.