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SENATE BILL NO. 865

Offered January 13, 1999

A BILL to amend and reenact § 10.1-1408.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 10.1-1408.3, 10.1-1408.4, and 10.1-1410.2, an article numbered 2.1 in Chapter 14 of Title 10.1, consisting of sections numbered 10.1-1413.2, 10.1-1413.3, and 10.1-1413.4, an article numbered 7.2 in Chapter 14 of Title 10.1, consisting of a section numbered 10.1-1454.2, and a section numbered 62.1-241.7:1, relating to solid waste.

Patrons—Hanger; Delegate: Deeds

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-1408.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1408.3, 10.1-1408.4, and 10.1-1410.2, an article numbered 2.1 in Chapter 14 of Title 10.1, consisting of sections numbered 10.1-1413.2, 10.1-1413.3, and 10.1-1413.4, an article numbered 7.2 in Chapter 14 of Title 10.1, consisting of a section numbered 10.1-1454.2, and a section numbered 62.1-241.7:1 as follows:

§ 10.1-1408.1. Permit required; open dumps prohibited.

A. No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste without a permit from the Director.

B. No application for a new solid waste management facility permit shall be complete unless it contains the following:

1. Certification from the governing body of the county, city or town in which the facility is to be located that the location and operation of the facility are consistent with all applicable ordinances. The governing body shall inform the applicant and the Department of the facility's compliance or noncompliance not more than 120 days from receipt of a request from the applicant. No such certification shall be required for the application for the renewal of a permit or transfer of a permit as authorized by regulations of the Board;

2. A disclosure statement, except that the Director, upon request and in his sole discretion, and when in his judgment other information is sufficient and available, may waive the requirement for a disclosure statement for a captive industrial landfill when such a statement would not serve the purposes of this chapter;

3. If the applicant proposes to locate the facility on property not governed by any county, city or town zoning ordinance, certification from the governing body that it has held a public hearing, in accordance with the applicable provisions of § ~~15.1-431~~ 15.2-2204, to receive public comment on the proposed facility. Such certification shall be provided to the applicant and the Department within 120 days from receipt of a request from the applicant;

4. If the applicant proposes to operate a new sanitary landfill or transfer station, a statement, including a description of the steps taken by the applicant to seek the comments of the residents of the area where the sanitary landfill or transfer station is proposed to be located, regarding the siting and operation of the proposed sanitary landfill or transfer station. The public comment steps shall be taken prior to filing with the Department the notice of intent to apply for a permit for the sanitary landfill or transfer station as required by the Department's solid waste management regulations. The public comment steps shall include publication of a public notice once a week for two consecutive weeks in a newspaper of general circulation serving the locality where the sanitary landfill or transfer station is proposed to be located and holding at least one public meeting within the locality to identify issues of concern, to facilitate communication and to establish a dialogue between the applicant and persons who may be affected by the issuance of a permit for the sanitary landfill or transfer station. The public notice shall include a statement of the applicant's intent to apply for a permit to operate the proposed sanitary landfill or transfer station, the proposed sanitary landfill or transfer station site location, the date, time and location of the public meeting the applicant will hold and the name, address and telephone number of a person employed by the applicant, who can be contacted by interested persons to answer questions or receive comments on the siting and operation of the proposed sanitary landfill or transfer station. The first publication of the public notice shall be at least fourteen days prior to the public meeting date.

The provisions of this subdivision shall not apply to applicants for a permit to operate a new captive industrial landfill or a new construction-demolition-debris landfill;

5. If the applicant is a local government or public authority that proposes to operate a new municipal sanitary landfill or transfer station, a statement, including a description of the steps taken by the

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60 applicant to seek the comments of the residents of the area where the sanitary landfill or transfer station
61 is proposed to be located, regarding the siting and operation of the proposed sanitary landfill or transfer
62 station. The public comment steps shall be taken prior to filing with the Department the notice of intent
63 to apply for a permit for the sanitary landfill or transfer station as required by the Department's solid
64 waste management regulations. The public comment steps shall include the formation of a citizens'
65 advisory group to assist the locality or public authority with the selection of a proposed site for the
66 sanitary landfill or transfer station, publication of a public notice once a week for two consecutive weeks
67 in a newspaper of general circulation serving the locality where the sanitary landfill or transfer station is
68 proposed to be located, and holding at least one public meeting within the locality to identify issues of
69 concern, to facilitate communication and to establish a dialogue between the applicant and persons who
70 may be affected by the issuance of a permit for the sanitary landfill or transfer station. The public notice
71 shall include a statement of the applicant's intent to apply for a permit to operate the proposed sanitary
72 landfill or transfer station, the proposed sanitary landfill or transfer station site location, the date, time
73 and location of the public meeting the applicant will hold and the name, address and telephone number
74 of a person employed by the applicant, who can be contacted by interested persons to answer questions
75 or receive comments on the siting and operation of the proposed sanitary landfill or transfer station. The
76 first publication of the public notice shall be at least fourteen days prior to public meeting date. For
77 local governments that have zoning ordinances, such public comment steps as required under
78 §§ ~~15.1-431~~ 15.2-2204 and ~~15.1-493~~ 15.2-2285 shall satisfy the public comment requirements for public
79 hearings and public notice as required under this section. Any applicant which is a local government or
80 public authority that proposes to operate a new transfer station on land where a municipal sanitary
81 landfill is already located shall be exempt from the public comment requirements for public hearing and
82 public notice otherwise required under this section-;

83 *6. If the application is for a new municipal solid waste landfill or for an expansion of an existing*
84 *municipal solid waste landfill, a statement, signed by the applicant, guaranteeing that sufficient disposal*
85 *capacity will be available in the facility to enable localities within the Commonwealth to comply with*
86 *solid waste management plans developed pursuant to §10.1-1411, and certifying that such localities will*
87 *be allowed to contract for and to reserve disposal capacity in the facility. This provision shall not apply*
88 *to permit applications from one or more political subdivisions for new landfills that will only accept*
89 *municipal solid waste generated within those political subdivision or subdivisions' jurisdiction; and*

90 *7. If the application is for a new municipal solid waste landfill or for an expansion of an existing*
91 *municipal solid waste landfill, certification from the governing body of the locality in which the facility*
92 *would be located that a host agreement has been reached between the applicant and the governing*
93 *body. The agreement shall, at a minimum, have provisions covering (i) the amount of financial*
94 *compensation the applicant will provide the host locality, (ii) infrastructure required for safety and*
95 *transportation needs, (iii) the daily disposal limit, and (iv) the anticipated service area of the facility.*
96 *The host agreement shall contain a provision that the applicant will pay the full cost of at least one*
97 *full-time employee of the locality whose responsibility it will be to monitor and inspect waste*
98 *transportation and disposal practices in the locality. The host agreement shall also provide that the*
99 *applicant shall, when requested by the host locality, split air and water samples so that the host locality*
100 *may independently test the sample, with all associated costs paid for by the applicant.*

101 C. Notwithstanding any other provision of law:

102 1. Every holder of a permit issued under this article who has not earlier filed a disclosure statement
103 shall, prior to July 1, 1991, file a disclosure statement with the Director.

104 2. Every applicant for a permit under this article shall file a disclosure statement with the Director,
105 together with the permit application or prior to September 1, 1990, whichever comes later. No permit
106 application shall be deemed incomplete for lack of a disclosure statement prior to September 1, 1990.

107 3. Every applicant shall update its disclosure statement quarterly to indicate any change of condition
108 that renders any portion of the disclosure statement materially incomplete or inaccurate.

109 4. The Director, upon request and in his sole discretion, and when in his judgment other information
110 is sufficient and available, may waive the requirements of this subsection for a captive industrial waste
111 landfill when such requirements would not serve the purposes of this chapter.

112 D. ~~Notwithstanding~~ *Except as provided in subdivision D2, no permit for a new solid waste management facility*
113 *nor any amendment to a permit allowing facility expansion or an increase in capacity shall be issued*
114 *until the Director has determined, after an investigation and analysis of the potential human health,*
115 *environmental, transportation infrastructure, and transportation safety impacts and needs and an*
116 *evaluation of comments by the host local government, other local governments and interested persons,*
117 *that (i) the proposed facility poses no substantial, expansion, or increase protects present and future*
118 *human health and the environment; (ii) there is a need for the additional capacity; (iii)*
119 *sufficient infrastructure will exist to safely handle the waste flow; (iv) the increase is consistent with*
120 *requirements of § 10.1-1408.4; (v) the public interest will be served by the proposed facility's operation*
121 *or the expansion or increase in capacity of a facility; and (vi) the additional capacity is consistent with*

122 regional and local solid waste management plans developed pursuant to § 10.1-1411. The Department
123 shall hold a public hearing within the said county, city or town prior to the issuance of any such permit
124 for the management of nonhazardous solid waste. *Subdivision D2, in lieu of this subdivision, shall apply*
125 *to nonhazardous industrial solid waste management facilities owned or operated by the generator of the*
126 *waste managed at the facility, and that accept only waste generated by the facility owner or operator.*

127 2. *No new permit for a nonhazardous industrial solid waste management facility that is owned or*
128 *operated by the generator of the waste managed at the facility, and that accepts only waste generated*
129 *by the facility owner or operator, shall be issued until the Director has determined, after investigation*
130 *and evaluation of comments by the local government, that the proposed facility poses no present or*
131 *potential danger to human health or the environment. The Department shall hold a public hearing*
132 *within the county, city or town where the facility is to be located prior to the issuance of any such*
133 *permit for the management of nonhazardous industrial solid waste.*

134 E. The permit shall contain such conditions or requirements as are necessary to comply with the
135 requirements of this Code and the regulations of the Board and to ~~prevent a substantial~~ protect present
136 ~~or potential hazard to~~ and future human health and the environment.

137 The Director may include in any permit such recordkeeping, testing and reporting requirements as are
138 necessary to ensure that the local governing body of the county, city or town where the waste
139 management facility is located is kept timely informed regarding the general nature and quantity of
140 waste being disposed of at the facility. Such recordkeeping, testing and reporting requirements shall
141 require disclosure of proprietary information only as is necessary to carry out the purposes of this
142 chapter. At least once every ten years, the Director shall review and issue written findings on the
143 environmental compliance history of each permittee, material changes, if any, in key personnel, and
144 technical limitations, standards, or regulations on which the original permit was based. The time period
145 for review of each category of permits shall be established by Board regulation. If, upon such review,
146 the Director finds that repeated material or substantial violations of the permittee or material changes in
147 the permittee's key personnel would make continued operation of the facility not in the best interests of
148 human health or the environment, the Director shall amend or revoke the permit, in accordance
149 herewith. Whenever such review is undertaken, the Director may amend the permit to include additional
150 limitations, standards, or conditions when the technical limitations, standards, or regulations on which
151 the original permit was based have been changed by statute or amended by regulation or when any of
152 the conditions in subsection B of § 10.1-1409 exist. The Director may deny, revoke, or suspend any
153 permit for any of the grounds listed under subsection A of § 10.1-1409.

154 F. There shall exist no right to operate a landfill or other facility for the disposal, treatment or
155 storage of nonhazardous solid waste or hazardous waste within the Commonwealth. Permits for solid
156 waste management facilities shall not be transferable except as authorized in regulations promulgated by
157 the Board. The issuance of a permit shall not convey or establish any property rights or any exclusive
158 privilege, nor shall it authorize any injury to private property or any invasion of personal rights or any
159 infringement of federal, state, or local law or regulation.

160 G. No person shall dispose of solid waste in open dumps.

161 H. No person shall own, operate or allow to be operated on his property an open dump.

162 I. No person shall allow waste to be disposed of on his property without a permit. Any person who
163 removes trees, brush, or other vegetation from land used for agricultural or forestal purposes shall not be
164 required to obtain a permit if such material is deposited or placed on the same or other property of the
165 same landowner from which such materials were cleared. The Board shall by regulation provide for
166 other reasonable exemptions from permitting requirements for the disposal of trees, brush and other
167 vegetation when such materials are removed for agricultural or forestal purposes.

168 When promulgating any regulation pursuant to this section, the Board shall consider the character of
169 the land affected, the density of population, and the volume of waste to be disposed, as well as other
170 relevant factors.

171 J. No permit shall be required pursuant to this section for recycling or for temporary storage
172 incidental to recycling. As used in this subsection, "recycling" means any process whereby material
173 which would otherwise be solid waste is used or reused, or prepared for use or reuse, as an ingredient in
174 an industrial process to make a product, or as an effective substitute for a commercial product.

175 K. The Board shall provide for reasonable exemptions from the permitting requirements, both
176 procedural and substantive, in order to encourage the development of yard waste composting facilities.
177 To accomplish this, the Board is authorized to exempt such facilities from regulations governing the
178 treatment of waste and to establish an expedited approval process. Agricultural operations receiving only
179 yard waste for composting shall be exempt from permitting requirements provided that (i) the
180 composting area is located not less than 300 feet from a property boundary, is located not less than
181 1,000 feet from an occupied dwelling not located on the same property as the composting area, and is
182 not located within an area designated as a flood plain as defined in § 10.1-600; (ii) the agricultural

183 operation has at least one acre of ground suitable to receive yard waste for each 150 cubic yards of
184 finished compost generated; (iii) the total time for the composting process and storage of material that is
185 being composted or has been composted shall not exceed eighteen months prior to its field application
186 or sale as a horticultural or agricultural product; and (iv) the owner or operator of the agricultural
187 operation notifies the Director in writing of his intent to operate a yard waste composting facility and
188 the amount of land available for the receipt of yard waste. In addition to the requirements set forth in
189 clauses (i) through (iv) of the preceding sentence, the owner and operator of any agricultural operation
190 that receives more than 6,000 cubic yards of yard waste generated from property not within the control
191 of the owner or the operator in any twelve-month period shall be exempt from permitting requirements
192 provided (i) the owner and operator submit to the Director an annual report describing the volume and
193 types of yard waste received by such operation for composting and (ii) the operator shall certify that the
194 yard waste composting facility complies with local ordinances. The Director shall establish a procedure
195 for the filing of the notices, annual reports and certificates required by this subsection and shall
196 prescribe the forms for the annual reports and certificates. Nothing contained in this article shall prohibit
197 the sale of composted yard waste for horticultural or agricultural use, provided that any composted yard
198 waste sold as a commercial fertilizer with claims of specific nutrient values, promoting plant growth, or
199 of conditioning soil shall be sold in accordance with the Virginia Fertilizer Act (§ 3.1-106.1 et seq.). As
200 used in this subsection, "agricultural operation" shall have the same meaning ascribed to it in subsection
201 B of § 3.1-22.29.

202 The operation of a composting facility as provided in this subsection shall not relieve the owner or
203 operator of such a facility from liability for any violation of this chapter.

204 L. The Board shall provide for reasonable exemptions from the permitting requirements, both
205 procedural and substantive, in order to encourage the development of facilities for the decomposition of
206 vegetative waste. To accomplish this, the Board shall approve an expedited approval process. As used in
207 this subsection, the decomposition of vegetative waste means a natural aerobic or anaerobic process,
208 active or passive, which results in the decay and chemical breakdown of the vegetative waste. Nothing
209 in this subsection shall be construed to prohibit a city or county from exercising its existing authority to
210 regulate such facilities by requiring, among other things, permits and proof of financial security.

211 M. In receiving and processing applications for permits required by this section, the Director shall
212 assign top priority to applications which (i) agree to accept nonhazardous recycling residues and (ii)
213 pledge to charge tipping fees for disposal of nonhazardous recycling residues which do not exceed those
214 charged for nonhazardous municipal solid waste. Applications meeting these requirements shall be acted
215 upon no later than six months after they are deemed complete.

216 N. Every solid waste management facility shall be operated in compliance with the regulations
217 promulgated by the Board pursuant to this chapter. To the extent consistent with federal law, those
218 facilities which were permitted prior to March 15, 1993, and upon which solid waste has been disposed
219 of prior to October 9, 1993, may continue to receive solid waste until they have reached their vertical
220 design capacity, provided that the facility is in compliance with the requirements for liners and leachate
221 control in effect at the time of permit issuance, and further provided that on or before October 9, 1993,
222 the owner or operator of the solid waste management facility submits to the Director:

223 1. An acknowledgement that the owner or operator is familiar with state and federal law and
224 regulations pertaining to solid waste management facilities operating after October 9, 1993, including
225 postclosure care, corrective action and financial responsibility requirements;

226 2. A statement signed by a registered professional engineer that he has reviewed the regulations
227 established by the Department for solid waste management facilities, including the open dump criteria
228 contained therein; that he has inspected the facility and examined the monitoring data compiled for the
229 facility in accordance with applicable regulations; and that, on the basis of his inspection and review, *he*
230 has concluded *that*: (i) ~~that~~ the facility is not an open dump, (ii) ~~that~~ the facility does not pose a
231 substantial present or potential hazard to human health and the environment, and (iii) ~~that~~ the leachate or
232 residues from the facility do not pose a threat of contamination or pollution of the air, surface water or
233 ground water in a manner constituting an open dump or resulting in a substantial present or potential
234 hazard to human health or the environment; and

235 3. A statement signed by the owner or operator (i) that the facility complies with applicable financial
236 assurance regulations, and (ii) estimating when the facility will reach its vertical design capacity.

237 The facility may not be enlarged prematurely to avoid compliance with state or federal regulations
238 when such enlargement is not consistent with past operating practices, the permit or modified operating
239 practices to ensure good management.

240 Facilities which are authorized by this subsection to accept waste for disposal beyond the waste
241 boundaries existing on October 9, 1993, shall be as follows:

242 Category 1: Nonhazardous industrial waste facilities that are located on property owned or controlled
243 by the generator of the waste disposed of in the facility;

244 Category 2: Nonhazardous industrial waste facilities other than those that are located on property

245 owned or controlled by the generator of the waste disposed of in the facility, provided that the facility
246 accepts only industrial waste streams which the facility has lawfully accepted prior to July 1, 1995, or
247 other nonhazardous industrial waste as approved by the Department on a case-by-case basis; and

248 Category 3: Facilities that accept only construction-demolition-debris waste as defined in the Board's
249 regulations.

250 The Director may prohibit or restrict the disposal of waste in facilities described in this subsection
251 which contains hazardous constituents as defined in applicable regulations which, in the opinion of the
252 Director, would pose a substantial risk to health or the environment. Facilities described in category 3
253 may expand laterally beyond the waste disposal boundaries existing on October 9, 1993, provided that
254 there is first installed, in such expanded areas, liners and leachate control systems meeting the applicable
255 performance requirements of the Board's regulations, or a demonstration is made to the satisfaction of
256 the Director that such facilities satisfy the applicable variance criteria in the Board's regulations.

257 Owners or operators of facilities which are authorized under this subsection to accept waste for
258 disposal beyond the waste boundaries existing on October 9, 1993, shall ensure that such expanded
259 disposal areas maintain setback distances applicable to such facilities under the Board's current
260 regulations and local ordinances. Prior to the expansion of any facility described in category 2 or 3, the
261 owner or operator shall provide the Director with written notice of the proposed expansion at least sixty
262 days prior to commencement of construction. The notice shall include recent groundwater monitoring
263 data sufficient to determine that the facility does not pose a threat of contamination of groundwater in a
264 manner constituting an open dump or creating a substantial present or potential hazard to human health
265 or the environment. The Director shall evaluate the data included with the notification and may advise
266 the owner or operator of any additional requirements that may be necessary to ensure compliance with
267 applicable laws and prevent a substantial present or potential hazard to health or the environment.

268 Facilities, or portions thereof, which have reached their vertical design capacity shall be closed in
269 compliance with regulations promulgated by the Board.

270 Nothing in this subsection shall alter any requirement for groundwater monitoring, financial
271 responsibility, operator certification, closure, post-closure care, operation, maintenance or corrective
272 action imposed under state or federal law or regulation, or impair the powers of the Director pursuant to
273 § 10.1-1409.

274 O. Portions of a permitted solid waste management facility used solely for the storage of household
275 hazardous waste may store household hazardous waste for a period not to exceed one year, provided that
276 such wastes are properly contained and are segregated to prevent mixing of incompatible wastes.

277 P. Any permit for a new municipal solid waste landfill, and any permit amendment authorizing
278 expansion of an existing municipal solid waste landfill, shall incorporate conditions to require that
279 capacity in the landfill will be available to localities within the Commonwealth that choose to contract
280 for and reserve such capacity for disposal of such localities' solid waste in accordance with solid waste
281 management plans developed by such localities pursuant to § 10.1-1411. This provision shall not apply
282 to permit applications from one or more political subdivisions for new landfills that will only accept
283 municipal solid waste generated within the political subdivision or subdivisions jurisdiction.

284 Q. No owner or operator of a solid waste management facility shall accept wastes for incineration
285 or disposal unless the transporter of the waste provides certification, in a form prescribed by the Board,
286 that the waste is free of substances not authorized for disposal at the facility.

287 § 10.1-1408.3. Landfill siting review.

288 A. Before granting a permit for a new sanitary landfill, the Director shall determine, in writing, that
289 the site on which the landfill is to be constructed is suitable for the construction and operation of a
290 sanitary landfill. In making his determination, the Director shall consider and address the following
291 factors:

292 1. Based on a written, site-specific report prepared by the Virginia Department of Transportation,
293 the adequacy of transportation facilities that will be available to serve the landfill, including the impact
294 of the landfill on local traffic volume, road congestion, and highway safety;

295 2. The potential impact of the proposed landfill on parks and recreational areas, public water
296 supplies, marine resources, wetlands, historic sites, fish and wildlife, water quality, and tourism; and

297 3. The geologic suitability of the proposed site, including proximity to areas of seismic activity and
298 karst topography.

299 B. No new sanitary landfill shall be constructed:

300 1. In a 100-year flood plain;

301 2. In any tidal wetland or nontidal wetland contiguous to any surface water body;

302 3. In the recharge area for any aquifer serving an existing public water supply;

303 4. In any area vulnerable to flooding resulting from dam failures;

304 5. Over a sinkhole or less than 100 feet above a solution cavern associated with karst topography;

305 6. In any park or recreational area, wildlife management area or area designated by any federal or

306 state agency as the critical habitat of any endangered species; or

307 7. Over an active fault.

308 § 10.1-1408.4. Landfill daily volume limit.

309 On or before December 31, 1999, every sanitary landfill permitted under this section shall comply
 310 with a daily volume limit restricting the amount of solid waste that may be disposed of in the facility.
 311 The daily volume limit shall be negotiated between the landfill owner and the local governing body of
 312 the locality in which the landfill is situated, and shall be incorporated in the host agreement required
 313 under subdivision B7 of § 10.1-1408.1. In establishing the daily volume limit, the local governing body
 314 shall consider the ability of the landfill operator to safely and properly manage and dispose of the
 315 volume authorized by the host agreement, the local effect of vehicles transporting waste to the landfill
 316 and the capacity guarantee requirement established under subsection P of § 10.1-1408.1. Any sanitary
 317 landfill operating under a host agreement that was executed prior to January 1, 1999, that incorporates
 318 a restriction or limitation on waste volume shall be deemed in compliance with this requirement. Failure
 319 to comply with this requirement, or disposal of waste in excess of an established daily volume limit,
 320 shall be a violation of this chapter.

321 § 10.1-1410.2. Landfill post-closure monitoring, maintenance and plans.

322 A. The owner and operator of any solid waste landfill permitted under this chapter shall be
 323 responsible for ensuring that such landfill is properly closed in accordance with the Board's regulations
 324 and that the landfill is maintained and monitored after closure so as to protect human health and the
 325 environment. Maintenance and monitoring of solid waste landfills after closure shall be in accordance
 326 with the Board's regulations. At all times during the operational life of a solid waste landfill, the owner
 327 and operator shall provide to the Director satisfactory evidence of sufficient, secure and dedicated
 328 financial resources to ensure that the landfill will be:

329 1. Closed in accordance with the Board's regulations and the closure plan approved for the landfill;
 330 and

331 2. Monitored and maintained after closure, for such period of time as provided in the Board's
 332 regulations or for such additional period as the Director shall determine is necessary, in accordance
 333 with a post-closure plan approved by the Director.

334 B. Not less than 180 days prior to the completion of the post-closure monitoring and maintenance
 335 period as prescribed by the Board's regulations or by the Director, the owner or operator shall submit
 336 to the Director a certificate, signed by a professional engineer licensed in the Commonwealth, that
 337 post-closure monitoring and maintenance have been completed in accordance with the approved
 338 post-closure plan. The certificate shall be accompanied by an evaluation, prepared by a professional
 339 engineer licensed in the Commonwealth and signed by the owner or operator, assessing and evaluating
 340 the landfill's potential for harm to human health and the environment in the event that post-closure
 341 monitoring and maintenance are discontinued. If the Director determines that continued post-closure
 342 monitoring or maintenance is necessary to prevent harm to human health or the environment, he shall
 343 extend the post-closure period for such additional time as the Director deems necessary to protect
 344 human health and the environment and shall direct the owner or operator to submit a revised
 345 post-closure plan and to continue post-closure monitoring and maintenance in accordance therewith.
 346 Requirements for financial assurance as set forth in subsection A shall apply throughout such extended
 347 post-closure period.

348 Article 2.1.

349 Virginia Solid Waste Environmental Stewardship Fund.

350 §10.1-1413.2. Virginia Solid Waste Environmental Stewardship Fund.

351 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
 352 Virginia Solid Waste Environmental Stewardship Fund, hereafter referred to as "the Fund." The Fund
 353 shall be established on the books of the Comptroller. All fees collected pursuant to § 10.1-1413.3 shall
 354 be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall
 355 remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon,
 356 at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys
 357 in the Fund shall be used solely for the purposes found in subsection B. Expenditures and disbursements
 358 from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written
 359 request signed by the Director.

360 B. The Fund shall be used for the following purposes:

361 1. Under the supervision of the Director of the Department of Environmental Quality, to pay
 362 necessary costs of preventing, abating, removing and remediating releases or threatened releases of
 363 pollutants to the environment from solid waste landfills that have been determined by the Director to be
 364 causing harm to human health or the environment or creating an imminent and substantial risk of such
 365 harm and for which funds for prevention, abatement, removal or remediation of releases or threatened
 366 releases causing such harm or risk are insufficient or are unavailable from other sources. Expenditures
 367 may be made from the Fund under this subdivision only for prevention, abatement, removal and

368 remediation of releases that occur or threaten to occur after the termination of the post-closure
 369 maintenance period established for the subject landfill, or after the Director has determined that the
 370 landfill has been abandoned by the owner in violation of this chapter.

371 2. For transfer, as provided in § 10.1-1413.3, to the Virginia Conservation and Recreation Fund
 372 established pursuant to Chapter 10.2 (§ 10.1-1017 et seq.) of this title, to be expended in accordance
 373 with the provisions contained therein.

374 3. For transfer, as provided in § 10.1-1413.3, to the Virginia Solid Waste or Recycling Revolving
 375 Fund (§ 62.1-241.2), for use by the Board according to § 62.1-241.7:1 to provide grants to local
 376 governments, subject to the provisions of subsection C of § 10.1-1413.4, for the proper final closure of
 377 landfills that are owned by local governments, or which are located in the locality and have been
 378 abandoned in violation of this chapter, and that are not equipped with liner and leachate control
 379 systems meeting the requirements of the Board's regulations, and as otherwise provided in
 380 § 62.1-241.7:1. The Department shall annually prioritize landfills in need of grants pursuant to this
 381 subdivision based on the greatest threat to human health and the environment.

382 § 10.1-1413.3. Solid Waste Environmental Stewardship Fund; distribution.

383 A. Until January 1, 2009, moneys in the Fund shall be distributed as follows: fifty percent for
 384 subsection B2 of § 10.1-1413.2 and fifty percent for subsection B3 of § 10.1-1413.2.

385 After January 1, 2009, moneys in the fund shall be distributed as follows: twenty-five percent for
 386 subsection B2 of § 10.1-1413.2, twenty-five percent for subsection B3 of § 10.1-1413.2, and fifty percent
 387 for subsection B1 of § 10.1-1413.2.

388 B. Any moneys expended from the Fund for the purposes enumerated in subsection B1 of
 389 § 10.1-1413.2 and subsequently recovered by the Commonwealth pursuant to subsection F of
 390 § 10.1-1410 or by other means shall be deposited in the Fund for use pursuant to B1 of § 10.2-1413.2.

391 § 10.1-1413.4. Solid Waste Environmental Stewardship Fund; fees; calculation.

392 A. In addition to the financial assurances required by this article for landfill closure and
 393 post-closure care, the owner or operator of each landfill permitted under this article to dispose of
 394 municipal solid waste, as defined by the Board's regulations, shall remit to the State Treasurer, for
 395 deposit into the Solid Waste Environmental Stewardship Fund, a fee of \$1.00 per ton of municipal solid
 396 waste disposed of at the landfill after December 31, 1999. Payment shall be made within ten days of the
 397 end of each quarter, with the first payment due by April 10, 2000. Remittance shall not be required
 398 under this subsection or under subsection B for waste accepted from localities utilizing the procedures
 399 found in subsection C.

400 B. 1. Not later than December 31, 2000, the owner or operator of every landfill that has received
 401 more than 1,500 tons per day of municipal solid waste on sixty or more days during any calendar year
 402 after 1994 shall submit to the Director a report indicating the average daily volume of solid waste
 403 received and disposed of at the landfill during each of the three most recent calendar years. The
 404 average daily volume of solid waste received and disposed of during a calendar year shall be calculated
 405 by dividing the total volume of solid waste in tons received and disposed of during the calendar year by
 406 the number of days that the facility received solid waste during the same period. The highest daily
 407 average volume of solid waste received and disposed of during any calendar year included in the
 408 reporting period shall constitute the landfill's Daily Threshold Volume.

409 2. For municipal solid waste disposed of at the landfill on any day after December 31, 2000, above
 410 the landfill's Daily Threshold Volume, in addition to the fees paid pursuant to subsection A, the owner
 411 or operator shall remit the following fees to the State Treasurer, for deposit into the Solid Waste
 412 Environmental Stewardship Fund:

413 a. 1,001 - 3,000 tons per day in excess of Daily Threshold Volume: \$0.50 per ton.

414 b. 3,001 - 5,000 tons per day in excess of Daily Threshold Volume: \$0.75 per ton in excess of 3,000
 415 tons but less than 5,000 tons.

416 c. More than 5,000 tons per day in excess of Daily Threshold Volume: \$1.00 per ton in excess of
 417 5,000 tons.

418 Payment shall be made quarterly, with the first payment due on March 31, 2001.

419 3. For new landfills permitted after December 31, 2000, the Daily Threshold Volume shall be the
 420 average daily volume of solid waste received and disposed of at the landfill during the first 180 days of
 421 the landfill's operation.

422 C. Any local government contracting for disposal in Virginia of municipal solid waste generated
 423 within its borders or disposing of such waste in a publicly or privately owned landfill shall be exempt
 424 from any fees charged for the purposes of subsections A or B, provided that the locality (i) advises the
 425 Director in advance of the beginning of the quarter for which a fee would otherwise be required and
 426 (ii) dedicates an amount equivalent to the amount that would otherwise be assessed to the purposes of
 427 the Virginia Solid Waste Environmental Stewardship Fund found in subsection B of § 10.1-1413.2.

428 D. The Department of Environmental Quality shall notify the owner or operator of every landfill

429 permitted to dispose of municipal solid waste of the requirements of this section not later than
430 September 30, 1999.

431 Article 7.2.

432 Transportation of Solid and Medical Waste by Truck.

433 § 10.1-1454.2. Regulation of Road Transportation of Waste.

434 A. The Board, in consultation with the appropriate agencies within the Secretariat of Transportation,
435 shall develop regulations governing the commercial transport, loading and unloading of nonhazardous
436 municipal solid waste (except scrap metal and source-separated recyclables) and regulated medical
437 waste by truck as are necessary to protect the health, safety, and welfare of the citizens of the
438 Commonwealth, and to protect the Commonwealth's environment and natural resources from pollution,
439 impairment, or destruction. Included in the regulations, to the extent allowable under federal law and
440 regulation, shall be provisions:

441 1. Governing containers holding wastes so that they will be designed, constructed, secured and
442 maintained so as to prevent the escape of wastes, liquids and odors and to prevent the loss or spillage
443 of wastes in the event of an accident; and

444 2. Requiring owners of trucks transporting wastes regulated under this article to demonstrate
445 financial responsibility sufficient to comply with the requirements of this article as a condition of
446 operation. Regulations governing the amount of any financial responsibility required shall take into
447 consideration: (i) the risk of potential damage or injury that may result from spillage or leakage; (ii)
448 the potential costs of containment and cleanup; and (iii) the nature and degree of injury or interference
449 with general health, welfare and property that may result.

450 B. The owner or operator of a truck from which there is spillage or loss of wastes subject to
451 regulations under this article shall immediately report such spillage or loss in accordance with the
452 regulations of the Board and shall immediately take all such actions as may be necessary to contain
453 and remove such wastes.

454 C. No person shall transport wastes regulated under this article by truck unless the containers
455 carried thereon are designed, constructed, loaded, operated and maintained in accordance with the
456 regulations developed pursuant to subsection A. A violation of this subsection shall be a Class 1
457 misdemeanor. For the purposes of this subsection, the term "odors" means any emissions which cause
458 an odor objectionable to individuals of ordinary sensibility.

459 § 62.1-241.7:1. Grants to localities for landfill closure.

460 Subject to the provisions of subsection C of § 10.1-1413, funds transferred to the Fund from the Virginia
461 Solid Waste Environmental Stewardship Trust Fund pursuant to § 10.1-1413.2 shall be used by the
462 Board to provide grants to local governments for the proper final closure of landfills that are owned by
463 local governments, or that are located in the locality and have been abandoned in violation of this
464 chapter, and that are not equipped with liner and leachate control systems meeting the requirements of
465 the Board's regulations. However, the Board may, if it finds that there exist sufficient funds to maintain
466 significant and continuing progress in fulfilling the purposes of paragraph B 3 of § 10.1-1413.2, utilize
467 up to ten percent of moneys that would otherwise go to such purposes to provide grants to localities to
468 enhance recycling activities and recycling infrastructure, waste reduction efforts, litter control and
469 anti-litter education efforts and for use by the locality to assist the private sector in providing these
470 types of activities. The Board may establish such terms and conditions on any grant as it deems
471 appropriate. Grants shall be disbursed from the Fund by the Authority in accordance with the written
472 direction of the Board.

473 2. That the Director of the Department of Environmental Quality shall not, prior to July 1, 2000,
474 issue any permit for a new landfill which would accept municipal solid waste. Nothing herein shall
475 prevent the Director from acting on any permit for which a notice of intent has been filed prior to
476 January 1, 1999. The Department of Environmental Quality shall undertake a comprehensive
477 study of the solid waste industry in Virginia, including an analysis of and recommendations
478 regarding solid waste disposal practices, projections on future landfill capacity needs, mechanisms
479 to enhance waste reduction and recycling, and needed state and federal legislation to protect
480 human health and the environment. The Department shall report its results to the Governor and
481 the General Assembly by December 1, 1999.

482 3. That the amendments made by this act to § 10.1-1408.1 shall not apply to any application for,
483 or the processing and issuance of, any permit or permit amendment for a solid waste management
484 facility for which such application was submitted to the Department on or before November 13,
485 1998.