

15103143D

HOUSE BILL NO. 1846

Offered January 14, 2015

Prefiled January 13, 2015

A BILL to amend and reenact §§ 10.1-1400, 62.1-44.3, and 62.1-44.5 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 10.1-1402.03 and 10.1-1402.04, relating to the monitoring and testing of coal combustion residuals; penalty.

Patrons—Marshall, D.W.; Senator: Ruff

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-1400, 62.1-44.3, and 62.1-44.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 10.1-1402.03 and 10.1-1402.04 as follows:

§ 10.1-1400. Definitions.

As used in this chapter unless the context requires a different meaning:

"Applicant" means any and all persons seeking or holding a permit required under this chapter.

"Board" means the Virginia Waste Management Board.

"Coal combustion residuals" or "CCRs" means fly ash, bottom ash, boiler slag, flue gas desulfurization materials, and coal combustion by-products. "Coal combustion residuals" includes coal combustion wastes and fossil fuel combustion wastes.

"Composting" means the manipulation of the natural aerobic process of decomposition of organic materials to increase the rate of decomposition.

"Department" means the Department of Environmental Quality.

"Director" means the Director of the Department of Environmental Quality.

"Disclosure statement" means a sworn statement or affirmation, in such form as may be required by the Director, which includes:

1. The full name and business address of all key personnel;

2. The full name and business address of any entity, other than a natural person, that collects, transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds an equity interest of five percent or more;

3. A description of the business experience of all key personnel listed in the disclosure statement;

4. A listing of all permits or licenses required for the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10 years;

5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any sort by any state, federal or local authority, within the past 10 years, which are pending or have concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or criminal violation of any law, regulation or requirement relating to the collection, transportation, treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized list of all convictions within 10 years of key personnel of any of the following crimes punishable as felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary; theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1; racketeering; or violation of antitrust laws;

6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the applicant or have issued any environmental permit or license to the applicant within the past 10 years, in connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or hazardous waste;

7. Any other information about the applicant and the key personnel that the Director may require that reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and competently operate a solid waste management facility in Virginia; and

8. The full name and business address of any member of the local governing body or planning commission in which the solid waste management facility is located or proposed to be located, who

INTRODUCED

HB1846

59 holds an equity interest in the facility.

60 "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid
61 waste into or on any land or water so that such solid waste or any constituent thereof may enter the
62 environment or be emitted into the air or discharged into any waters, including ground waters.

63 "Equity" includes both legal and equitable interests.

64 "Federal acts" means any act of Congress providing for waste management and regulations
65 promulgated thereunder.

66 "Hazardous material" means a substance or material in a form or quantity which may pose an
67 unreasonable risk to health, safety or property when transported, and which the Secretary of
68 Transportation of the United States has so designated by regulation or order.

69 "Hazardous substance" means a substance listed under United States Public Law 96-510, entitled the
70 Comprehensive Environmental Response Compensation and Liability Act.

71 "Hazardous waste" means a solid waste or combination of solid waste which, because of its quantity,
72 concentration or physical, chemical or infectious characteristics, may:

73 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible
74 or incapacitating illness; or

75 2. Pose a substantial present or potential hazard to human health or the environment when
76 improperly treated, stored, transported, disposed of, or otherwise managed.

77 "Hazardous waste generation" means the act or process of producing hazardous waste.

78 "Household hazardous waste" means any waste material derived from households (including single
79 and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic
80 grounds and day-use recreation areas) which, except for the fact that it is derived from a household,
81 would be classified as a hazardous waste, including but not limited to, nickel, cadmium, mercuric oxide,
82 manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint
83 solvents; any product containing trichloroethylene, toxic art supplies, used motor oil and unusable
84 gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides,
85 or restricted-use pesticides as defined in § 3.2-3900. All empty household product containers and any
86 household products in legal distribution, storage or use shall not be considered household hazardous
87 waste.

88 "Key personnel" means the applicant itself and any person employed by the applicant in a managerial
89 capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous
90 waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the
91 physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous
92 waste and such other employees as the Director may designate by regulation. If the applicant has not
93 previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any
94 officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of
95 the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key
96 personnel is not a natural person, the term includes all key personnel of that entity, provided that where
97 such entity is a chartered lending institution or a reporting company under the Federal Securities
98 Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the
99 term means the chief executive officer of any agency of the United States or of any agency or political
100 subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that
101 operates a landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste
102 under contract with or for one of those governmental entities.

103 "Manifest" means the form used for identifying the quantity, composition, origin, routing and
104 destination of hazardous waste during its transportation from the point of generation to the point of
105 disposal, treatment or storage of such hazardous waste.

106 "Mixed radioactive waste" means radioactive waste that contains a substance which renders the
107 mixture a hazardous waste.

108 "Open dump" means a site on which any solid waste is placed, discharged, deposited, injected,
109 dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into
110 the environment or present a hazard to human health.

111 "Person" includes an individual, corporation, partnership, association, a governmental body, a
112 municipal corporation or any other legal entity.

113 "Radioactive waste" or "nuclear waste" includes:

114 1. "Low-level radioactive waste" material that:

115 a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as
116 defined in section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014(e)(2)); and

117 b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level
118 radioactive waste; or

119 2. "High-level radioactive waste" which means:

120 a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including

liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

"Recycling residue" means the (i) nonmetallic substances, including but not limited to plastic, rubber, and insulation, which remain after a shredder has separated for purposes of recycling the ferrous and nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic waste remaining after removal of metals, glass, plastics and paper which are to be recycled as part of a resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

"Release of CCRs" means the movement of coal combustion residuals onto the land from any structure, appurtenance, landfill, impoundment, retention pond, or other area used for the management of such residuals.

"Resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption and utilization of recovered resources.

"Resource recovery" means the recovery of material or energy from solid waste.

"Resource recovery system" means a solid waste management system which provides for collection, separation, recycling and recovery of solid wastes, including disposal of nonrecoverable waste residues.

"Sanitary landfill" means a disposal facility for solid waste so located, designed and operated that it does not pose a substantial present or potential hazard to human health or the environment, including pollution of air, land, surface water or ground water.

"Sludge" means any solid, semisolid or liquid wastes with similar characteristics and effects generated from a public, municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, air pollution control facility or any other waste producing facility.

"Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural operations, or community activities but does not include (i) solid or dissolved material in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are sources subject to a permit from the State Water Control Board, or (iii) source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as amended.

"Solid waste management facility" means a site used for planned treating, long term storage, or disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

"Transport" or "transportation" means any movement of property and any packing, loading, unloading or storage incidental thereto.

"Treatment" means any method, technique or process, including incineration or neutralization, designed to change the physical, chemical or biological character or composition of any waste to neutralize it or to render it less hazardous or nonhazardous, safer for transport, amenable to recovery or storage or reduced in volume.

"Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub and tree prunings, bark, limbs, roots, and stumps.

"Waste" means any solid, hazardous or radioactive waste as defined in this section.

"Waste management" means the collection, source separation, storage, transportation, transfer, processing, treatment and disposal of waste or resource recovery.

"Yard waste" means decomposable waste materials generated by yard and lawn care and includes leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include roots or stumps that exceed six inches in diameter.

§ 10.1-1402.03. Monitoring and testing of coal combustion residuals.

A. The owner or operator of (i) an electric generating facility that manages CCRs in a structure or (ii) a landfill into which CCRs have been deposited shall annually test every private well, as defined in § 32.1-176.3, and privately owned spring used for drinking water that is located adjacent to the electric generating facility or landfill, or within a radius specified by the Department, to determine the presence of heavy metals. Any such structure or other area used for the management of CCRs that has a liner, leachate controls and groundwater monitoring that meet the Board's requirements shall not be subject to this testing requirement. The owner or operator of the electric generating facility or landfill shall be responsible for identifying and locating the owners of the affected wells and springs, and the test shall occur in the fourth quarter of each calendar year unless the owner of a well or spring waives the testing in writing or the Department determines that no further testing is required. The test results shall be submitted to the Department and the owners of the wells and springs within 30 days of obtaining the results. If a test indicates the presence of any heavy metal at a level that exceeds the federal Maximum Contaminant Level for drinking water or the Department's Alternate Concentration Level, the owner or operator of the electric generating facility or landfill shall report the exceedance within 24 hours of

obtaining the test results to the Department, the Virginia Department of Health, and the chief administrative officer of every locality, every private well owner and spring owner, and every water well systems provider, as defined in § 54.1-1128, within the radius of the CCRs site specified by the Department.

B. Within 24 hours of reporting an exceedance in accordance with subsection A, the owner or operator of the electric generating facility or landfill shall notify the local media, including newspapers of general circulation and television and radio stations serving the affected area, of the release of CCRs and the exceedance of the heavy metal level.

C. The owner or operator of the electric generating facility or landfill shall develop a response plan to remediate any exceedance and protect human health and the environment from the presence of CCRs, and shall provide such plan to the Department and the Virginia Department of Health. The Board, in consultation with the Commissioner of Health, may require that the response plan include any necessary action to address the exceedance, including stopping the source of the exceedance, abating the exceedance, abandoning private wells, and providing potable water either by appropriate treatment or by providing an alternative water source. The owner or operator of an electric generating facility or landfill immediately shall implement the response plan upon receipt of test results that a private well or water supply has exceeded the limit for one or more heavy metals. In the event of an exceedance, the owner or operator of an electric generating facility or landfill shall prepare a monthly status report detailing the remediating actions being taken and provide the report to the Department; the Virginia Department of Health; and the chief administrative officer of every locality, every private well or spring owner, and every water well systems provider within the radius of the CCRs site determined by the Department.

D. Any person who violates the provisions of this section shall be subject to the penalties and enforcement provisions provided in § 10.1-1455. The Board shall have the authority to recover the costs of any action taken by the Board or Department to address or remediate an exceedance.

§ 10.1-1402.04. Reporting of releases of coal combustion residuals.

A. In addition to any other requirements imposed by law or permit, the owner or operator of an electric generating facility, landfill, or any other facility that manages CCRs shall, within one hour of learning of the release of CCRs from the facility, report the release to the Department, the Virginia Department of Health, and the coordinator of emergency services appointed pursuant to § 44-146.19 for any political subdivision reasonably expected to be affected by the release. Such notice shall include the details of the release of CCRs, including the location and the date and approximate time of the release, the name of the facility where the release occurred, an estimate of the approximate volume of CCRs released, the manner of the release, actions being taken to control the release, and any potentially affected state waters. Within four hours of such release, the owner or operator of the facility also shall notify the media serving the potentially affected area, including newspapers of general circulation and television and radio stations.

B. In addition to any other requirements imposed by law or permit, the owner or operator of the electric generating facility or landfill shall provide the Department with a written report not later than five days from the date of the release, outlining the specific details of the release, including the known volume of the release, actions taken to control the release to date, further action needed to address the release, and any other information requested by the Department, and shall provide the Department with a plan for remediation of the release. The Board may require that the plan include any necessary action to address the release, including stopping the source of the release, abating the release, and providing potable water either by appropriate treatment or by providing an alternative water source.

C. Any person who violates the provisions of this section shall be subject to the penalties and enforcement provisions provided in § 10.1-1455. The Board shall have the authority to recover the costs of any action taken by the Board or Department to address or remediate the release.

§ 62.1-44.3. Definitions.

Unless a different meaning is required by the context, the following terms as used in this chapter shall have the meanings hereinafter respectively ascribed to them:

"Beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are not limited to, the protection of fish and wildlife resources and habitat, maintenance of waste assimilation, recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of Virginia's waters. Offstream beneficial uses include, but are not limited to, domestic (including public water supply), agricultural uses, electric power generation, commercial, and industrial uses.

"Board" means the State Water Control Board.

"Certificate" means any certificate issued by the Board.

"Coal combustion residuals" or "CCRs" means fly ash, bottom ash, boiler slag, flue gas

desulfurization materials, and coal combustion by-products. "Coal combustion residuals" includes coal combustion wastes and fossil fuel combustion wastes.

"Establishment" means any industrial establishment, mill, factory, tannery, paper or pulp mill, mine, coal mine, colliery, breaker or coal-processing operations, quarry, oil refinery, boat, vessel, and every other industry or plant or works the operation of which produces industrial wastes or other wastes or which may otherwise alter the physical, chemical or biological properties of any state waters.

"Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil or rock.

"Industrial wastes" means liquid or other wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resources.

"The law" or "this law" means the law contained in this chapter as now existing or hereafter amended.

"Member" means a member of the Board.

"Normal agricultural activities" means those activities defined as an agricultural operation in § 3.2-300 and any activity that is conducted as part of or in furtherance of such agricultural operation but shall not include any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

"Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 and any activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal, tar, oil, chemicals, and all other substances except industrial wastes and sewage which may cause pollution in any state waters.

"Owner" means the Commonwealth or any of its political subdivisions, including but not limited to sanitation district commissions and authorities and any public or private institution, corporation, association, firm, or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of § 62.1-44.5.

"Person" means an individual, corporation, partnership, association, governmental body, municipal corporation, or any other legal entity.

"Policies" means policies established under subdivisions (3a) and (3b) of § 62.1-44.15.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the Board, are "pollution" for the terms and purposes of this chapter.

"Pretreatment requirements" means any requirements arising under the Board's pretreatment regulations including the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the owner of a publicly owned treatment works; or any reporting requirements imposed by the owner of a publicly owned treatment works or by the regulations of the Board.

"Pretreatment standards" means any standards of performance or other requirements imposed by regulation of the Board upon an industrial user of a publicly owned treatment works.

"Reclaimed water" means water resulting from the treatment of domestic, municipal, or industrial wastewater that is suitable for a direct beneficial or controlled use that would not otherwise occur. Specifically excluded from this definition is "gray water."

"Reclamation" means the treatment of domestic, municipal, or industrial wastewater or sewage to produce reclaimed water for a direct beneficial or controlled use that would not otherwise occur.

"Regulation" means a regulation issued under § 62.1-44.15 (10).

"Release of coal combustion residuals" or "Release of CCRs" means the movement of coal combustion residuals into state waters from any structure, appurtenance, landfill, impoundment, retention pond, or other area used for the management of CCRs.

305 "Reuse" means the use of reclaimed water for a direct beneficial use or a controlled use that is in
306 accordance with the requirements of the Board.

307 "Rule" means a rule adopted by the Board to regulate the procedure of the Board pursuant to
308 § 62.1-44.15 (7).

309 "Ruling" means a ruling issued under § 62.1-44.15 (9).

310 "Sewage" means the water-carried human wastes from residences, buildings, industrial establishments
311 or other places together with such industrial wastes and underground, surface, storm, or other water as
312 may be present.

313 "Sewage treatment works" or "treatment works" means any device or system used in the storage,
314 treatment, disposal, or reclamation of sewage or combinations of sewage and industrial wastes, including
315 but not limited to pumping, power, and other equipment, and appurtenances, and any works, including
316 land, that are or will be (i) an integral part of the treatment process or (ii) used for the ultimate disposal
317 of residues or effluent resulting from such treatment. These terms shall not include onsite sewage
318 systems or alternative discharging sewage systems.

319 "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other
320 construction, devices, and appliances appurtenant thereto, used for conducting sewage or industrial
321 wastes or other wastes to a point of ultimate disposal.

322 "Special order" means a special order issued under subdivisions (8a), (8b), and (8c) of § 62.1-44.15.

323 "Standards" means standards established under subdivisions (3a) and (3b) of § 62.1-44.15.

324 "State waters" means all water, on the surface and under the ground, wholly or partially within or
325 bordering the Commonwealth or within its jurisdiction, including wetlands.

326 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a
327 frequency and duration sufficient to support, and that under normal circumstances do support, a
328 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally
329 include swamps, marshes, bogs and similar areas.

330 **§ 62.1-44.5. Prohibition of waste discharges or other quality alterations of state waters except as**
331 **authorized by permit; notification required.**

332 A. Except in compliance with a certificate or permit issued by the Board or other entity authorized
333 by the Board to issue a certificate or permit pursuant to this chapter, it shall be unlawful for any person
334 to:

335 1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious
336 substances;

337 2. Excavate in a wetland;

338 3. Otherwise alter the physical, chemical or biological properties of state waters and make them
339 detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic
340 or industrial consumption, or for recreation, or for other uses; or

341 4. On and after October 1, 2001, conduct the following activities in a wetland:

342 a. New activities to cause draining that significantly alters or degrades existing wetland acreage or
343 functions;

344 b. Filling or dumping;

345 c. Permanent flooding or impounding; or

346 d. New activities that cause significant alteration or degradation of existing wetland acreage or
347 functions.

348 5. Discharge stormwater into state waters from Municipal Separate Storm Sewer Systems or land
349 disturbing activities.

350 B. Any person in violation of the provisions of subsection A who discharges or causes or allows (i)
351 a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or
352 upon state waters or (ii) a discharge that may reasonably be expected to enter state waters shall, upon
353 learning of the discharge, promptly notify, but in no case later than 24 hours the Board, the Director of
354 the Department of Environmental Quality, or the coordinator of emergency services appointed pursuant
355 to § 44-146.19 for the political subdivision reasonably expected to be affected by the discharge. Written
356 notice to the Director of the Department of Environmental Quality shall follow initial notice within the
357 time frame specified by the federal Clean Water Act.

358 C. *The owner or operator of an electric generating facility, sanitary landfill, or any other facility*
359 *that manages coal combustion residuals shall, within one hour of learning of the release of coal*
360 *combustion residuals into state waters from the facility, report the release to the Department and the*
361 *coordinator of emergency services appointed pursuant to § 44-146.19 for the political subdivision*
362 *reasonably expected to be affected by the discharge. Such notice shall include details of the release of*
363 *CCRs, including the location and the date and approximate time of the release, the name of the facility*
364 *where the release occurred, an estimate of the approximate volume of CCRs released, actions being*
365 *taken to control the release, and any potentially affected state waters. Within four hours of such release,*
366 *the owner or operator of the facility also shall notify the media serving the potentially affected area,*

including newspapers of general circulation and television and radio stations. Not later than 10 days from the date of the release, the facility shall provide the Department with a written report outlining the specific details of the release, including the final known volume of the release and actions taken to control the release, and include a plan for remediation of the waste.

D. In addition to any other requirements imposed by law or permit, the owner or operator of the facility shall provide the Department with a written report not later than five days from the date of the release, outlining the specific details of the release, including the known volume of the release, actions taken to control the release to date, further action needed to address the release, and any other information requested by the Department, and shall provide the Department with a plan for remediation of the release. The Board may require that the plan include any necessary action to address the release, including but not limited to stopping the source of the release, abating the release, and providing potable water either by appropriate treatment or by providing an alternative water source.

E. Any person who violates the provisions of this section shall be subject to the penalties and enforcement provisions provided in § 62.1-44.15. The Board shall have the authority to recover the costs of any action taken by the Board or Department to address or remediate the release.