

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 62.1-44.16 of the Code of Virginia, relating to discharge of industrial*  
3 *wastes; notice of application.*

4 [H 1206]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 62.1-44.16 of the Code of Virginia is amended and reenacted as follows:**8 **§ 62.1-44.16. Industrial wastes.**

9 A. Any owner who erects, constructs, opens, reopens, expands, or employs new processes in or  
10 operates any establishment from which there is a potential or actual discharge of industrial wastes or  
11 other wastes to state waters shall first provide facilities approved by the Board for the treatment or  
12 control of such industrial wastes or other wastes.

13 Application for such discharge shall be made to the Board and shall be accompanied by pertinent  
14 plans, specifications, maps, and such other relevant information as may be required, in scope and details  
15 satisfactory to the Board.

16 1. Public notice of every such application shall be given by notice published once a week for two  
17 successive weeks in a newspaper of general circulation in the county or city where the certificate is  
18 applied for or by such other means as the Board may prescribe. *However, to the extent authorized by*  
19 *federal law and if the permit applicant so chooses, an abbreviated public notice shall be published in*  
20 *such newspaper listing the name of the permitted facility, the type of discharge, and a link to the*  
21 *Department's website with such public notice.*

22 2. The Board shall review the application and the information that accompanies it as soon as  
23 practicable and making a ruling within a period of four months from the date the application is filed  
24 with the Board approving or disapproving the application and stating the grounds for conditional  
25 approval or disapproval. If the application is approved, the Board shall grant a certificate for the  
26 discharge of the industrial wastes or other wastes into state waters or for the other alteration of the  
27 physical, chemical, or biological properties of state waters, as the case may be. If the application is  
28 disapproved, the Board shall notify the owner as to what measures, if any, the owner may take to secure  
29 approval.

30 B. Any owner operating under a valid certificate issued by the Board who fails to meet water quality  
31 standards established by the Board solely as a result of a change in water quality standards or in the law  
32 shall provide the necessary facilities approved by the Board within a reasonable time to meet such new  
33 requirements; provided, however, that such facilities shall be reasonable and practicable of attainment  
34 giving consideration to the public interest and the equities of the case. The Board may amend such  
35 certificate, or revoke it and issue a new one to reflect such facilities after proper hearing, with at least  
36 thirty days' notice to the owner of the time, place, and purpose thereof. If such revocation or amendment  
37 of a certificate is mutually agreeable to the Board and the owner involved, the hearing and notice may  
38 be dispensed with.

39 C. The Board shall revoke the certificate in case of a failure to comply with all such requirements  
40 and may issue a special order under subdivisions (8a), (8b), and (8c) of § 62.1-44.15 (8).

41 D. Any locality may adopt an ordinance that provides for the testing and monitoring of the land  
42 application of solid or semisolid industrial wastes within its political boundaries to ensure compliance  
43 with applicable laws and regulations.

44 E. The Board shall adopt regulations requiring the payment of a fee for the land application of solid  
45 or semisolid industrial wastes, pursuant to permits issued under this section, in localities that have  
46 adopted ordinances in accordance with subsection D. The person land applying industrial wastes shall (i)  
47 provide advance notice of the estimated fee to the generator of the industrial wastes unless notification  
48 is waived, (ii) collect the fee from the generator, and (iii) remit the fee to the Department of  
49 Environmental Quality as provided by regulation. The fee shall be imposed on each dry ton of solid or  
50 semisolid industrial wastes that is land applied in a locality in accordance with the regulations adopted  
51 by the Board. The regulations shall include requirements and procedures for:

52 1. Collection of fees by the Department of Environmental Quality;

53 2. The deposit of collected fees into the Sludge Management Fund established by subsection G of  
54 § 62.1-44.19:3; and55 3. Disbursement of proceeds from the Sludge Management Fund by the Department of  
56 Environmental Quality pursuant to subsection G of § 62.1-44.19:3.

F. The Department, in consultation with the Department of Health, the Department of Conservation and Recreation, the Department of Agriculture and Consumer Services, and the Virginia Cooperative Extension Service, shall establish and implement a program to train persons employed by those local governments that have adopted ordinances, pursuant to this section, to test and monitor the land application of industrial wastes. The program shall include, at a minimum, instruction in (i) the provisions of the Virginia Pollution Abatement Permit Regulation; (ii) land application methods and equipment, including methods and processes for preparation and stabilization of industrial wastes that are land applied; (iii) sampling and chain of custody control; (iv) preparation and implementation of nutrient management plans for land application sites; (v) complaint response and preparation of complaint and inspection reports; (vi) enforcement authority and procedures; (vii) interaction and communication with the public; and (viii) preparation of applications for reimbursement of local monitoring costs disbursed pursuant to subsection G of § 62.1-44.19:3. To the extent feasible, the program shall emphasize in-field instruction and practical training. Persons employed by local governments shall successfully complete such training before the local government may request reimbursement from the Board for testing and monitoring of land application of solid or semisolid industrial wastes performed by the person. The completion of training shall not be a prerequisite to the exercise of authority granted to local governments by any applicable provision of law.

The Department may:

1. Charge attendees a reasonable fee to recover the actual costs of preparing course materials and providing facilities and instructors for the program. The fee shall be reimbursable from the Fund established pursuant to subsection G of § 62.1-44.19:3; and

2. Request and accept the assistance and participation of other state agencies and institutions in preparing and presenting the course of training established by this subsection.

**2. That the adoption of amendments to the State Water Control Board regulations necessary to implement the provisions of this act shall be exempt from Article 2 (§ 2.2-4006 et seq. of the Code of Virginia) of the Administrative Process Act if the Department of Environmental Quality accepts public comment on the proposed amendments for at least 60 days and provides a summary of the public comments to the Board prior to Board action on the amendments.**