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## SENATE BILL NO. 865

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee  
on February 26, 1999)

(Patron Prior to Substitute—Senator Hanger)

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 10.1-1406.2, 10.1-1408.3 and 10.1-1410.2; by adding in Chapter 14 of Title 10.1 an article numbered 2.1, consisting of sections numbered 10.1-1413.2, 10.1-1413.3 and 10.1-1413.4; and by adding in Chapter 14 of Title 10.1 an article numbered 7.2, consisting of a section numbered 10.1-1454.2, relating to solid waste management.*

**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 10.1-1406.2, 10.1-1408.3 and 10.1-1410.2; by adding in Chapter 14 of Title 10.1 an article numbered 2.1, consisting of a section numbered 10.1-1413.2, 10.1-1413.3 and 10.1-1413.4; and by adding in Chapter 14 of Title 10.1 an article numbered 7.2, consisting of sections numbered 10.1-1454.2, as follows:**

*§ 10.1-1406.2. Conditional exemption for coal and mineral mining overburden or solid waste.*

*The provisions of this chapter shall not apply to coal or mineral mining overburden returned to the mine site or solid wastes from the extraction, beneficiation, and processing of coal or minerals that are managed in accordance with requirements promulgated by the Department of Mines, Mineral and Energy.*

*§ 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 § 15.2-2204, 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

60 industrial landfill or a new construction-demolition-debris landfill;

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

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

95 7. *If the application is for a new municipal solid waste landfill or for an expansion of an existing*  
96 *municipal solid waste landfill, certification from the governing body of the locality in which the facility*  
97 *would be located that a host agreement has been reached between the applicant and the governing body*  
98 *unless the governing body would be the owner and operator of the landfill. The agreement shall, at a*  
99 *minimum, have provisions covering (i) the amount of financial compensation the applicant will provide*  
100 *the host locality, (ii) daily travel routes and traffic volumes, (iii) the daily disposal limit, and (iv) the*  
101 *anticipated service area of the facility. The host agreement shall contain a provision that the applicant*  
102 *will pay the full cost of at least one full-time employee of the locality whose responsibility it will be to*  
103 *monitor and inspect waste transportation and disposal practices in the locality. The host agreement*  
104 *shall also provide that the applicant shall, when requested by the host locality, split air and water*  
105 *samples so that the host locality may independently test the sample, with all associated costs paid for by*  
106 *the applicant. All such sampling results shall be provided to the Department. For purposes of this*  
107 *subdivision, "host agreement" means any lease, contract, agreement or land use permit entered into or*  
108 *issued by the locality in which the landfill is situated which includes terms or conditions governing the*  
109 *operation of the landfill; and*

110 8. *If the application is for a locality-owned and -operated new municipal solid waste landfill or for*  
111 *an expansion of an existing such municipal solid waste landfill, information on the anticipated (i) daily*  
112 *travel routes and traffic volumes, (ii) daily disposal limit, and (iii) service area of the facility.*

113 C. Notwithstanding any other provision of law:

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

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

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

121 4. The Director, upon request and in his sole discretion, and when in his judgment other information

is sufficient and available, may waive the requirements of this subsection for a captive industrial waste landfill when such requirements would not serve the purposes of this chapter.

D. ~~No 1. Except as provided in subdivision D2, no permit for a new solid waste management facility nor any amendment to a permit allowing facility expansion or an increase in capacity shall be issued until the Director has determined, after an investigation and analysis of the potential human health, environmental, transportation infrastructure, and transportation safety impacts and needs and an evaluation of comments by the host local government, other local governments and interested persons, that (i) the proposed facility poses no substantial, expansion, or increase protects present or potential danger to and future human health or safety and the environment; (ii) there is a need for the additional capacity; (iii) sufficient infrastructure will exist to safely handle the waste flow; (iv) the increase is consistent with locality- or state-imposed daily disposal limits; (v) the public interest will be served by the proposed facility's operation or the expansion or increase in capacity of a facility; and (vi) the additional capacity is consistent with regional and local solid waste management plans developed pursuant to § 10.1-1411.~~ The Department shall hold a public hearing within the said county, city or town prior to the issuance of any such permit for the management of nonhazardous solid waste. Subdivision D2, in lieu of this subdivision, shall apply to nonhazardous industrial solid waste management facilities owned or operated by the generator of the waste managed at the facility, and that accept only waste generated by the facility owner or operator. The Board shall have the authority to promulgate regulations to implement this subdivision.

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

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

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

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

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

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

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

When promulgating any regulation pursuant to this section, the Board shall consider the character of

183 the land affected, the density of population, *and* the volume of waste to be disposed, as well as other  
184 relevant factors.

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

189 K. The Board shall provide for reasonable exemptions from the permitting requirements, both  
190 procedural and substantive, in order to encourage the development of yard waste composting facilities.  
191 To accomplish this, the Board is authorized to exempt such facilities from regulations governing the  
192 treatment of waste and to establish an expedited approval process. Agricultural operations receiving only  
193 yard waste for composting shall be exempt from permitting requirements provided that (i) the  
194 composting area is located not less than 300 feet from a property boundary, is located not less than  
195 1,000 feet from an occupied dwelling not located on the same property as the composting area, and is  
196 not located within an area designated as a flood plain as defined in § 10.1-600; (ii) the agricultural  
197 operation has at least one acre of ground suitable to receive yard waste for each 150 cubic yards of  
198 finished compost generated; (iii) the total time for the composting process and storage of material that is  
199 being composted or has been composted shall not exceed eighteen months prior to its field application  
200 or sale as a horticultural or agricultural product; and (iv) the owner or operator of the agricultural  
201 operation notifies the Director in writing of his intent to operate a yard waste composting facility and  
202 the amount of land available for the receipt of yard waste. In addition to the requirements set forth in  
203 clauses (i) through (iv) of the preceding sentence, the owner and operator of any agricultural operation  
204 that receives more than 6,000 cubic yards of yard waste generated from property not within the control  
205 of the owner or the operator in any twelve-month period shall be exempt from permitting requirements  
206 provided (i) the owner and operator submit to the Director an annual report describing the volume and  
207 types of yard waste received by such operation for composting and (ii) the operator shall certify that the  
208 yard waste composting facility complies with local ordinances. The Director shall establish a procedure  
209 for the filing of the notices, annual reports and certificates required by this subsection and shall  
210 prescribe the forms for the annual reports and certificates. Nothing contained in this article shall prohibit  
211 the sale of composted yard waste for horticultural or agricultural use, provided that any composted yard  
212 waste sold as a commercial fertilizer with claims of specific nutrient values, promoting plant growth, or  
213 of conditioning soil shall be sold in accordance with the Virginia Fertilizer Act (§ 3.1-106.1 et seq.). As  
214 used in this subsection, "agricultural operation" shall have the same meaning ascribed to it in subsection  
215 B of § 3.1-22.29.

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

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

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

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

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

240 2. A statement signed by a registered professional engineer that he has reviewed the regulations  
241 established by the Department for solid waste management facilities, including the open dump criteria  
242 contained therein; that he has inspected the facility and examined the monitoring data compiled for the  
243 facility in accordance with applicable regulations; and that, on the basis of his inspection and review, *he*  
244 has concluded *that*: (i) ~~that~~ the facility is not an open dump, (ii) ~~that~~ the facility does not pose a

substantial present or potential hazard to human health and the environment, and (iii) ~~that~~ the leachate or residues from the facility do not pose a threat of contamination or pollution of the air, surface water or ground water in a manner constituting an open dump or resulting in a substantial present or potential hazard to human health or the environment; and

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

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

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

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

Category 2: Nonhazardous industrial waste facilities other than those that are located on property owned or controlled by the generator of the waste disposed of in the facility, provided that the facility accepts only industrial waste streams which the facility has lawfully accepted prior to July 1, 1995, or other nonhazardous industrial waste as approved by the Department on a case-by-case basis; and

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

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

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

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

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

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

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

*Q. No owner or operator of a municipal solid waste management facility shall accept wastes for incineration or disposal from a vehicle operating with four or more axles unless the transporter of the waste provides certification, in a form prescribed by the Board, that the waste is free of substances not authorized for acceptance at the facility.*

§ 10.1-1408.3. Landfill siting review.

A. Before granting a permit which approves site suitability for a new municipal solid waste landfill,

the Director shall determine, in writing, that the site on which the landfill is to be constructed is suitable for the construction and operation of such a landfill. In making his determination, the Director shall consider and address, in addition to such others as he deems appropriate, the following factors:

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

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

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

The applicant shall provide such information on these factors as the Director may request.

B. In addition to such other types of locations as may be determined by the Board, no new municipal solid waste landfill shall be constructed:

1. In a 100-year flood plain;

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

3. Within five miles upgradient of any existing surface or groundwater public water supply intake or reservoir;

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

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

6. In any park or recreational area, wildlife management area or area designated by any federal or state agency as the critical habitat of any endangered species; or

7. Over an active fault.

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

A. The owner and operator of any solid waste landfill permitted under this chapter shall be responsible for ensuring that such landfill is properly closed in accordance with the Board's regulations and that the landfill is maintained and monitored after closure so as to protect human health and the environment. Maintenance and monitoring of solid waste landfills after closure shall be in accordance with the Board's regulations. At all times during the operational life of a solid waste landfill, the owner and operator shall provide to the Director satisfactory evidence of financial assurance consistent with all federal and state laws and regulations to ensure that the landfill will be:

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

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

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

#### Article 2.1.

#### Virginia Solid Waste Environmental Stewardship Fund.

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

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Solid Waste Environmental Stewardship Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected pursuant to §10.1-1413.4 shall be paid into the state treasury and credited to the Fund. The Fund shall also consist of funds appropriated to it by the General Assembly and such other sums as may be made available to it from any other source, public or private, all of which shall be credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes found in subsection B. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director. This fund shall be exempt from indirect

costs assessed by the Department of Accounts.

B. The Fund shall be used by the Department for the purposes of providing grants to local governments and to political subdivisions which exist to provide solid waste management services for the proper final closure of landfills that are owned by local governments or political subdivisions, or which are located in the locality and have been abandoned in violation of this chapter, and are not equipped with liner and leachate control systems meeting the requirements of the Board's regulations. The Department shall prioritize landfills in need of grants pursuant to this subdivision based on the greatest threat to human health and the environment. Grants pursuant to this subsection shall not replace previously existing financial assurances provided to the Department. The Fund may also be used by the Department for personnel costs associated with the implementation of this article and for monitoring, inspections and enforcement activities pursuant to this chapter.

C. The Director shall have the authority to access and release moneys in the Fund for purposes of this section for up to \$100,000 per grant as long as the disbursement does not exceed the balance of the Fund. If the Director requests a disbursement in excess of \$100,000 or an amount exceeding the current Fund balance, the disbursement shall require the written approval of the Governor.

Disbursements from the Fund may be made for the purposes outlined in subsection B, including, but not limited to, personnel, administrative, and equipment costs and expenses directly incurred by the Department, or by any other agency or political subdivision acting at the direction of the Department.

D. The Department shall develop guidelines which, after approval by the Governor, shall determine how the Fund can be used for the purposes of this section.

§ 10.1-1413.3. Solid Waste Environmental Stewardship Fund; recovery of funds.

Any moneys expended from the Fund and subsequently recovered by the Commonwealth pursuant to subsection F of § 10.1-1410 or by other means shall be deposited in the Fund.

§ 10.1-1413.4. Solid Waste Environmental Stewardship Fund per ton assessments.

A. In addition to the financial assurances required by this chapter for landfill closure and post-closure care, the owner or operator of each landfill permitted under this chapter to dispose of municipal solid waste shall remit to the State Treasurer, for deposit into the Virginia Solid Waste Environmental Stewardship Fund, an amount, calculated pursuant to subsection B, for each ton of municipal solid waste disposed of at the landfill, except as provided in subsection C. Payment shall be made within thirty days of the end of each quarter, with the first payment due by October 30, 1999.

B. For the purposes of calculating the amount due pursuant to subsection A, there shall be a base of \$1.00 per ton for every ton of municipal solid waste disposed of in a landfill. In addition, amounts within the following volume slots shall be added:

1. 1,000 to 3,000 tons per day, \$0.50 per ton;
2. 3,001 to 5,000 tons per day, \$0.75 per ton; and
3. More than 5,000 tons per day, \$1.00 per ton.

C. 1. In lieu of any required remittance to the Fund, any Virginia local government or Virginia political subdivision which exists to provide solid waste management services may allocate an equivalent amount to an appropriate locality or political subdivision fund. The allocation shall be made within thirty days of the end of the calendar or fiscal year during which, or for which, it has elected to utilize the provisions of this subsection and shall be disbursed for the same purposes as those of the Fund or for meeting or exceeding the recycling goals mandated in § 10.1-1411. This provision may be applied to waste originating within the borders of the locality, within the borders of the planning district of which the locality is a member, or within the localities forming the political subdivision.

2. The provisions of subdivision C 1 shall only apply if:

a. The locality or political subdivision provides notice to the owner or operator and the Director that it elects to utilize the provisions of this subsection; and

b. Within sixty days after the end of each fiscal year, the locality or political subdivision provides to the Director and, where applicable, to the operator of the landfill where its waste has been disposed of, written notice of the amounts dedicated for the purposes described in subdivision C 1 and the volume of waste for which funds are not required to be remitted pursuant to subsection A.

D. The Department of Environmental Quality shall notify the owner or operator of every landfill permitted to dispose of municipal solid waste of the requirements of this section not later than September 30, 1999.

#### Article 7.2.

#### Transportation of Municipal Solid and Medical Waste by Truck.

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

A. The Board, in consultation with the appropriate agencies, shall develop regulations governing the commercial transport of nonhazardous municipal solid waste (except scrap metal and source-separated recyclables) and regulated medical waste by truck as are necessary to protect the health, safety, and welfare of the citizens of the Commonwealth, and to protect the Commonwealth's environment and

429 natural resources from pollution, impairment, or destruction. Included in the regulations, to the extent  
430 allowable under federal law and regulation, shall be provisions:

431 1. Governing the transport of wastes by truck and the design and construction of the containers and  
432 trailers transporting waste by truck so that they will be designed, constructed and maintained so as to,  
433 as much as is reasonably practicable, prevent the escape of wastes and liquids and to prevent the loss  
434 or spillage of wastes to the extent possible in the event of an accident; and

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

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

445 C. No person shall transport by truck wastes regulated under this article unless the containers  
446 carried thereon are designed, constructed, loaded, operated and maintained in accordance with the  
447 regulations developed pursuant to subsection A. A violation of this subsection shall be a Class 1  
448 misdemeanor.

449 D. For the purposes of this section, the term "truck" means any tractor truck semitrailer combination  
450 with four or more axles.

451 2. That the Director of the Department of Environmental Quality shall not, prior to July 1, 2000,  
452 issue any permit for a new landfill which would accept municipal solid waste. Nothing herein shall  
453 prevent the Director from acting on or issuing any permit for which a notice of intent has been  
454 filed prior to January 1, 1999, nor shall it prevent action on or the issuance of any permit for the  
455 expansion of a facility within an area included in a determination of site suitability for a landfill  
456 made in accordance with the Board's regulations and that was approved by the Director prior to  
457 January 1, 1999. The Department of Environmental Quality shall undertake a comprehensive  
458 study of solid waste management in Virginia, including an analysis of and recommendations  
459 regarding solid waste disposal practices, projections on future landfill capacity needs, mechanisms  
460 to enhance waste reduction and recycling, and needed state and federal legislation to protect  
461 human health and the environment. The Department shall report its interim findings to the  
462 Governor and the General Assembly by December 1, 1999, and shall submit its final report to the  
463 Governor and the General Assembly by July 1, 2000.

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