

HOUSE BILL NO. 2178

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on _____)

(Patron Prior to Substitute—Delegate Clark)

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.6:2, relating to regulation of discharging preproduction plastic; requirements.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.6:2 as follows:

§ 62.1-44.6:2. Discharge of preproduction plastic requirements.

A. As used in this section:

"Facility" means a facility where preproduction plastic is manufactured, handled, or transported in the Commonwealth.

"Preproduction plastic" means plastic resin pellets, flakes, fibers, powders, and powdered coloring for plastics.

"Zero discharge or release" means zero preproduction plastics discharged or released to a body of water or to land outside the property line of a facility.

B. The Department shall establish a program to ensure zero discharge or release from point and nonpoint source at a facility that discharges to (i) a surface water under a Virginia Pollutant Discharge Elimination System (VPDES) permit issued by the Department or (ii) a publicly owned treatment works under an industrial pretreatment program permit or other written authorization issued by a local permit control authority and shall require the prompt and environmentally responsible containment and cleanup of discharged or released preproduction plastic.

Such program shall require a new and existing facility to (a) include effluent limitations requiring zero discharge or release in new or existing VPDES permits, industrial pretreatment programs, and stormwater permits so that the discharge or release of preproduction plastic from such facility's location is prohibited and (b) promptly clean up any plastic presumed to have been discharged or released from the facility in a manner that cleans up the most plastic possible without causing harm to the ecosystem or, if the facility contests that the plastic was discharged or released from the facility, immediately contain the plastic to

31 *prevent further spread of the plastic. A facility shall be allowed to be given an opportunity to prove that*
32 *preproduction plastic found outside the property line of the facility did not originate from the facility,*
33 *provided that the facility complies with the requirements of this section.*

34 *C. The Department shall require a facility to adopt and implement the following:*

35 *1. Continuous monitoring technology that can detect preproduction plastic at wastewater and stormwater*
36 *outfalls and reporting practices for the discharge of preproduction plastic from point and nonpoint sources at*
37 *the facility;*

38 *2. The installation of preproduction plastic containment systems at all storm drain discharge locations at*
39 *a facility that are down-gradient of an area where preproduction plastic is handled at the facility;*

40 *3. A written maintenance program and schedule to ensure that all containment systems are functioning*
41 *properly;*

42 *4. Measures to contain preproduction plastic during storage, handling, or transfer of the plastic,*
43 *including the use of (i) sealed containers that will not rupture under typical loading and unloading activities;*
44 *(ii) capture devices under all transfer valves and devices used in loading, unloading, or otherwise*
45 *transferring preproduction plastic; (iii) vacuums or vacuum-type systems for the quick cleanup of fugitive*
46 *preproduction plastic; and (iv) a source control and inspection program for all transportation of plastics off*
47 *site;*

48 *5. Spill prevention and spill cleanup procedures;*

49 *6. Updates in science and technology or advances in detection and treatment technologies; and*

50 *7. Other best management practices as the Department deems appropriate to reduce and control the*
51 *discharge or release of preproduction plastic.*

52 *D. The Department may exempt a facility from the requirements of this section if a facility satisfies the*
53 *criteria for a no exposure certification under 40 C.F.R. § 122.26. The Department shall require a facility*
54 *exempted under this subsection to submit a no exposure certification to the Department not less than once*
55 *every five years and include criteria for submitting a no exposure certification in all permit applications*
56 *related to authorize discharges from a facility. Before approving an exemption, the Department shall (i)*
57 *conduct an on-site inspection to confirm that the conditions at a facility requesting the exemption meet the*
58 *criteria for a no exposure certification; and (ii) inspect an off-site area at least 50 feet in all directions of all*
59 *stormwater and wastewater outfalls of the facility for the presence of off-site preproduction plastic.*

60 *E. The Department may establish additional requirements regarding the regulation of discharges and*
61 *releases of preproduction plastic from facilities into water or onto land in the Commonwealth.*