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HOUSE BILL NO. 1266

Offered January 14, 2026

Prefiled January 14, 2026

A BILL to amend the Code of Virginia by adding a section numbered 10.1-1186.7, relating to environmental permits; cumulative impact of certain activities on environmental justice communities; public hearing and notice requirements.

 Patron—Tran

 Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 10.1-1186.7 as follows:

§ 10.1-1186.7. Environmental permits; cumulative impact of certain activities on environmental justice communities; public hearing and notice requirements.

A. As used in this section:

"Applicant" means a person seeking or holding any permit approved or issued by the Department for a covered activity.

"Asphalt concrete plant" means any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing it with asphalt cements.

"Covered activity" means the construction, expansion, or operation of (i) a fossil fuel-fired electric generating facility with a nameplate capacity of more than 25 megawatts; (ii) a sludge or solid waste incinerator or combustor; (iii) a sewage treatment plant with a capacity of more than 50 million gallons per day; (iv) a sanitary landfill or other solid waste management facility; (v) a hazardous waste facility; (vi) a medical waste incinerator; (vii) a major source of air pollution, as defined by the federal Clean Air Act, 42 U.S.C. § 7401 et seq.; (viii) a fossil fuel-fired compressor station; (ix) an underground or surface coal mine or mineral mine; (x) a methane capture facility; (xi) an asphalt concrete plant; or (xii) a data center, as defined in subdivision A 43 of § 58.1-3506.

"Cumulative impact" means the effects on human health or the environment that result from the incremental impact of a covered activity when added to the impacts of other past, present, and reasonably foreseeable environmental and public health stressors.

"Environmental justice community" means the same as that term is defined in § 2.2-234.

"Environmental stressors" means any source of environmental pollution, including a concentrated area of air pollution, mobile source of air pollution, contaminated site, transfer station or other solid waste management facility, recycling facility, scrap yard, or point source of water pollution, including a combined sewer overflow outfall.

"Hazardous waste facility" means the same as that term is defined in § 10.1-1433.

"Methane capture facility" means any system used to collect methane gas produced as a byproduct of the operation of a publicly or privately owned facility used in commerce for use of such methane gas as an energy source for such facility or any other facility used in commerce. "Methane capture facility" includes any pipeline used to transport the collected methane gas.

"Permit" means any permit other than a permit by rule or any general permit issued under the State Water Control Law (§ 62.1-44.2 et seq.).

"Population of color" means a population of individuals who identify as belonging to one or more of the following groups: Black, African American, Asian, Pacific Islander, Native American, other non-white race, mixed race, Hispanic, Latino, or linguistically isolated.

"Public health stressor" means any environmental condition that may adversely affect public health, including a condition that may cause asthma, cancer, elevated blood lead levels, cardiovascular disease, or developmental problems.

"Sanitary landfill" means the same as that term is defined in § 10.1-1400.

"Solid waste management facility" means the same as that term is defined in § 10.1-1400.

B. Prior to applying for, or submitting any required notice of intent to apply for a permit for, a covered activity, an applicant shall submit a site-specific public participation plan to the Department for approval. The applicant shall implement the plan as approved by the Department. Such plan shall include:

1. Measures to ensure meaningful public participation in the regulatory process and a certification that the applicant shall undertake the measures contained in the plan;

2. A time or place of a public meeting to be conducted by the Department about the proposed covered activity that is convenient for the residents of the affected locality; and

3. The methods by which the applicant shall publicize the date, time, and nature of the public meeting to

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reach a population of color who reside within a five-mile radius of the site of the proposed activity. Such methods may include (i) posting a reasonably visible sign printed in English, and in all languages other than English regularly spoken by at least 10 percent of persons who reside within a one-mile radius of the location of the proposed covered activity, on the property where the proposed covered activity is intended to take place in accordance with any local ordinances; (ii) notifying neighborhood and environmental groups, in writing, in English and any other languages regularly spoken by persons who reside within a five-mile radius of the location of the proposed covered activity, with such notification translated by professional foreign language translators; and (iii) notifying local and state elected officials in writing.

C. 1. At least 30 days prior to the public meeting for a covered activity and no more than 60 days prior to such meeting, the applicant shall publish the date, time, and nature of the public meeting in a minimum one-quarter page advertisement in a newspaper having general circulation in the locality where such covered activity is intended to take place, in any other appropriate local newspaper serving such locality, on one or more social media platforms targeted to the area where the proposed covered activity is intended to take place, on the radio or cable television station that broadcasts in such locality, and on the applicant's website, if one exists.

Such advertisement shall contain:

- a. A statement of the proposed covered activity and its estimated local impact;
- b. A map showing the location of the proposed covered activity;
- c. Information regarding specific pollutants and the total quantity of each that may be emitted;
- d. Information regarding the type, quantity, and source of any fuel to be used;
- e. Information regarding where the public can obtain information regarding the proposed covered activity; and
- f. The date by which written comments shall be accepted and an address, including an email address or internet portal, for the submission of written comments to the applicant on the proposed covered activity, including comments on whether the proposed covered activity will occur in or affect an environmental justice community.

2. The applicant shall furnish such information required in subdivision 1 to (i) the chief elected official, chief administrative officer, and planning district commission of the locality where the proposed covered activity is intended to take place; (ii) each public library, United States post office, public school, and place of worship located within a five-mile radius of the proposed covered activity; (iii) each federally recognized or Virginia recognized tribe within a five-mile radius of the proposed covered activity; (iv) the primary address of any owner or inhabitant of any parcel of real property located within a five-mile radius of the proposed covered activity on the current real estate tax assessment maps of the locality where the proposed covered activity is intended to take place; (v) if the boundary of another locality is located within a three-mile radius of the proposed covered activity, the chief elected official, chief administrative officer, and planning district commission for such locality; and (vi) the Department.

3. The Department shall publish the information provided by the applicant required in subdivision 1 for the public meeting on its website. The Department shall ensure certified interpreters are available to enable persons who speak languages other than English to participate in the public meeting. At the public meeting, the applicant shall make a reasonable and good faith effort to provide clear, accurate, and complete information about the proposed covered activity, including the proposed covered activity's potential impacts on human health and the environment. The applicant shall accept oral comments during the public meeting without regard to whether the commenter has previously submitted written comments and shall transcribe the public meeting. The applicant shall accept written comments during the entire period of the public notice and for 15 days after the date of the public meeting.

D. The applicant shall include as part of its application, which shall be filed no sooner than 30 days after the date of the public meeting (i) a transcript of the public meeting; (ii) any written comments received from the public meeting; (iii) a report summarizing any oral or written comments received; (iv) if the proposed covered activity will occur in or affect an environmental justice community, an environmental justice impact statement that (a) assesses potential environmental stressors and public health stressors associated with the covered activity; (b) indicates environmental stressors and public health stressors associated with the proposed covered activity that cannot be avoided if the permit is granted; and (c) assesses the environmental stressors and public health stressors already borne by the environmental justice community as a result of existing activities located in or affecting such community, including cumulative impacts on any environmental justice community associated with the proposed covered activity; and (v) a certification of compliance with the requirements of this section and materials demonstrating such compliance to the Department's satisfaction.

E. Prior to the public meeting, the Department shall require an applicant to submit a mitigation plan if the Department determines that a covered activity as proposed would cause or contribute to any adverse impact, including an adverse cumulative impact on an environmental justice community that is greater than that borne by other communities within the Commonwealth, locality, or other geographical unit of analysis. Such mitigation plan shall identify each adverse impact that the applicant must address and describe how

each such adverse impact shall be minimized to the greatest extent possible. The applicant shall submit such mitigation plan to the Department within 30 days of such notification by the Department.

F. After the Department receives the materials required by subsections B, D, and E, if applicable, the Department shall review and publish the materials on its website and include on the website the date by which any written comments shall be submitted and the date, time, and location of the public hearing in the locality where the proposed covered activity is intended to take place. The public hearing may be combined with a public hearing required by any other applicable law consistent with this section. At least 45 days before the date of the public hearing, the Department shall publish notice of such hearing in a newspaper having general circulation in the locality where such proposed covered activity is intended to take place; in any other appropriate local newspaper serving such locality; on the radio or cable television station that broadcasts in such locality; on a social media platform targeted to the area where the proposed covered activity is intended to take place; and on the Department's website. The notice of the public hearing shall include (i) a description of the proposed covered activity; (ii) a map indicating the location of the proposed covered activity; (iii) a brief summary of the environmental justice impact statement; (iv) information on how an interested person may review a copy of the environmental justice impact statement; (v) the date by which written comments will be accepted and an address, including an email address or internet portal, for the submission of written comments to the Department on the proposed covered activity; (vi) the date, time, and location of the hearing; and (vii) any other information the Department deems appropriate. The applicant shall post the information contained in the Department's notice on its website, if one exists, or on a publicly accessible website at least 45 days before the date of the public hearing.

G. The Department shall consider any environmental justice impact statement, oral and written comments received during the public comment period, explanation of comments previously received during the public comment period made at the public hearing, mitigation plan, and noncompliance by the applicant with the requirements of this section, and any other relevant information, and shall determine (i) whether approval of the permit for the proposed covered activity would cause or contribute to an adverse impact, including an adverse cumulative impact on an environmental justice community and (ii) whether such impact is greater than that borne by any of the following: (a) other communities within the Commonwealth, (b) other communities within the locality in which the proposed covered activity is intended to take place, or (c) other communities within any other geographical unit of analysis as determined by the Department.

H. Notwithstanding any other provisions of law, upon a determination pursuant to subsection E that approval of the permit, as proposed, for the proposed covered activity would cause or contribute to an adverse impact, including an adverse cumulative impact, on an environmental justice community that is greater than that borne by other communities within the Commonwealth, locality, or other geographical unit of analysis as determined by the Department, the Department shall deny the permit unless the Department or the permitting authority determines that (i) the proposed covered activity would serve an existing health or safety need of the community in which the proposed covered activity is intended to take place that can be met through no other available means and (ii) the permit imposes conditions to minimize any adverse impacts, including adverse cumulative impacts, to the greatest extent possible.

I. Absent a determination that approval of a permit for the proposed covered activity would cause or create an adverse impact, including an adverse cumulative impact, on an environmental justice community that is disproportionately higher than that borne by other communities within the Commonwealth, locality, or other unit of geographic analysis, as determined by the Department, the Department shall take final action on the application in accordance with applicable law.

J. No application for a permit for a covered activity that is proposed to occur in or could affect an environmental justice community shall be considered complete and no permit for such covered activity shall be approved or issued unless the applicant has met the requirements of this section.

K. The Department shall adopt regulations to implement the provisions of this section or issue a guidance document for compliance with this section and make such regulations or guidance document available on the Department's website.

2. That the Department of Environmental Quality shall adopt regulations or issue a guidance document as required in subsection K of § 10.1-1186.7 of the Code of Virginia, as created by this act, by June 30, 2028.

3. That the provisions of this act shall become effective on July 1, 2028.