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HOUSE BILL NO. 846

Offered January 8, 2014

Prefiled January 8, 2014

A BILL to amend and reenact § 62.1-44.15:27 of the Code of Virginia, relating to the implementation by certain local governments of Stormwater Management Programs.

Patron—Lewis

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:**1. That § 62.1-44.15:27 of the Code of Virginia is amended and reenacted as follows:****§ 62.1-44.15:27. Establishment of Virginia Stormwater Management Programs.**

A. Any locality, excluding towns, unless such town operates a regulated MS4 and is other than the Towns of Chincoteague, Saxis, and Tangier, shall be required to adopt a VSMP for land-disturbing activities consistent with the provisions of this article according to a schedule set by the Board. Such schedule shall require adoption no sooner than 15 months and not more than 21 months following the effective date of the regulation that establishes local program criteria and delegation procedures, unless the Board deems that the Department's review of the VSMP warrants an extension up to an additional 12 months, provided the locality has made substantive progress. Localities subject to this subsection are authorized to coordinate plan review and inspections with other entities in accordance with subsection H. *Notwithstanding any other provision of law, any VSMP adopted by Accomack County shall not apply to land-disturbing activities carried out on any part of Chincoteague or Tangier Island.*

B. Any town other than the Towns of Chincoteague, Saxis, and Tangier lying within a county that has adopted a VSMP in accordance with subsection A may adopt its own program or shall become subject to the county program. If a town lies within the boundaries of more than one county, the town shall be considered to be wholly within the county in which the larger portion of the town lies. Towns shall inform the Department of their decision according to a schedule established by the Department. Thereafter, the Department shall provide an annual schedule by which towns can submit applications to adopt a VSMP.

C. In support of VSMP authorities, the Department shall:

1. Provide assistance grants to localities not currently operating a local stormwater management program to help the localities to establish their VSMP.

2. Provide technical assistance and training.

3. Provide qualified services in specified geographic areas to a VSMP to assist localities in the administration of components of their programs. The Department shall actively assist localities in the establishment of their programs and in the selection of a contractor or other entity that may provide support to the locality or regional support to several localities.

D. The Department shall develop a model ordinance for establishing a VSMP consistent with this article and its associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities.

E. Each locality that administers an approved VSMP shall, by ordinance, establish a VSMP that shall be administered in conjunction with a local MS4 program and a local erosion and sediment control program if required pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.), and which shall include the following:

1. Consistency with regulations adopted in accordance with provisions of this article;

2. Provisions for long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and

3. Provisions for the integration of the VSMP with local erosion and sediment control, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing construction in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

F. The Board may approve a state entity, including the Department, federal entity, or, for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 to operate a Virginia Stormwater Management Program consistent with the requirements of this article and its associated regulations and the VSMP authority's Department-approved annual standards and specifications. For these programs, enforcement shall be

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59 administered by the Department and the Board where applicable in accordance with the provisions of
60 this article.

61 G. The Board shall approve a VSMP when it deems a program consistent with this article and
62 associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit
63 for Discharges of Stormwater from Construction Activities.

64 H. A VSMP authority may enter into agreements or contracts with soil and water conservation
65 districts, adjacent localities, or other public or private entities to carry out or assist with the
66 responsibilities of this article.

67 I. Localities shall issue a consolidated stormwater management and erosion and sediment control
68 permit that is consistent with the provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51
69 et seq.). When available in accordance with subsection J, such permit, where applicable, shall also
70 include a copy of or reference to state VSMP permit coverage authorization to discharge.

71 J. Upon the development of an online reporting system by the Department, but no later than July 1,
72 2014, a VSMP authority shall then be required to obtain evidence of state VSMP permit coverage where
73 it is required prior to providing approval to begin land disturbance.

74 K. Any VSMP adopted pursuant to and consistent with this article shall be considered to meet the
75 stormwater management requirements under the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et
76 seq.) and attendant regulations, and effective July 1, 2014, shall not be subject to local program review
77 under the stormwater management provisions of the Chesapeake Bay Preservation Act.

78 L. All VSMP authorities shall comply with the provisions of this article and the stormwater
79 management provisions of Article 2.4 (§ 62.1-44.15:51 et seq.) and related regulations. The VSMP
80 authority responsible for regulating the land-disturbing activity shall require compliance with the issued
81 permit, permit conditions, and plan specifications.

82 M. VSMPs adopted in accordance with this section shall become effective July 1, 2014, unless
83 otherwise specified by the Board.