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SENATE BILL NO. 425

Offered January 8, 2014
Prefiled January 7, 2014

A BILL to amend and reenact §§ 62.1-44.15:44, 62.1-44.15:45, and 62.1-44.15:46 of the Code of Virginia, relating to Stormwater Management Program appeals.

Patron—Hanger

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 62.1-44.15:44, 62.1-44.15:45, and 62.1-44.15:46 of the Code of Virginia are amended and reenacted as follows:

§ 62.1-44.15:44. Right to hearing.

Any permit applicant, permittee, or person subject to state permit requirements under this article aggrieved by any action of the ~~VSMP authority,~~ Department~~,~~ or Board taken without a formal hearing, or by inaction of the ~~VSMP authority,~~ Department~~,~~ or Board, may demand in writing a formal hearing by the Board ~~or VSMP authority causing such grievance~~, provided a petition requesting such hearing is filed with the Board ~~or the VSMP authority~~ within 30 days after notice of such action.

§ 62.1-44.15:45. Hearings.

~~VSMP authorities~~ *When* holding hearings under this article, *the Board* shall do so in a manner consistent with § 62.1-44.26. *A locality holding hearings under this article shall do so in a manner consistent with local hearing procedures.*

§ 62.1-44.15:46. Appeals.

Any permittee or party aggrieved by a state permit or enforcement decision of the Department or Board under this article, or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final decision of the Department or Board under this article, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the Constitution of the United States. A person shall be deemed to meet such standard if (i) such person has suffered an actual or imminent injury that is an invasion of a legally protected interest and that is concrete and particularized; (ii) such injury is fairly traceable to the decision of the Department or the Board and not the result of the independent action of some third party not before the court; and (iii) such injury will likely be redressed by a favorable decision by the court.

The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall not apply to decisions rendered by localities ~~but appeals~~. *Appeals* shall be conducted in accordance with local appeal procedures *and shall include an opportunity for judicial review in the circuit court of the locality in which the land disturbance occurs. Unless otherwise provided by law, the circuit court shall conduct such review in accordance with the standards established in § 2.2-4027, and the decisions of the circuit court shall be subject to review by higher courts, as in other cases.*