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## HOUSE BILL NO. 1340

Offered January 21, 2016

A BILL to amend and reenact § 62.1-44.15:27 of the Code of Virginia, relating to a locality operating a stormwater management program.

Patron—Hodges

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 that operates a regulated MS4 or that notifies the Department of its decision to participate in the establishment of a VSMP 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 Department. Such schedule shall require implementation no later than July 1, 2014. Thereafter, the Department shall provide an annual schedule by which localities can submit applications to implement a VSMP. Localities subject to this subsection are authorized to coordinate plan review and inspections with other entities in accordance with subsection H. The Department shall operate a VSMP on behalf of any locality that does not operate a regulated MS4 and that does not notify the Department, according to a schedule set by the Department, of its decision to participate in the establishment of a VSMP. A locality that decides not to establish a VSMP shall still comply with the requirements set forth in this article and attendant regulations as required to satisfy the stormwater flow rate capacity and velocity requirements set forth in the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.). ~~A In a locality that is subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) also shall adopt requirements set forth in this article and attendant regulations as required to and that has elected not to operate a VSMP, the Department shall regulate Chesapeake Bay Preservation Act land-disturbing activities in accordance with § 62.1-44.15:28.~~

Notwithstanding any other provision of this subsection, any county that operates an MS4 that became a regulated MS4 on or after January 1, 2014 may elect, on a schedule set by the Department, to defer the implementation of the county's VSMP until no later than January 1, 2015. During this deferral period, when such county thus lacks the legal authority to operate a VSMP, the Department shall operate a VSMP on behalf of the county and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls. Any such county electing to defer the establishment of its VSMP shall still comply with the requirements set forth in this article and attendant regulations as required to satisfy the stormwater flow rate capacity and velocity requirements set forth in the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.).

B. Any town, including a town that operates a regulated MS4, lying within a county that has adopted a VSMP in accordance with subsection A may decide, but shall not be required, to become subject to the county's VSMP. Any town lying within a county that operates an MS4 that became a regulated MS4 on or after January 1, 2014 may elect to become subject to the county's VSMP according to the deferred schedule established in subsection A. During the county's deferral period, the Department shall operate a VSMP on behalf of the town and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls for the town as provided in subsection A. 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.

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

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

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

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

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

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

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

85 I. If a locality establishes a VSMP, it shall issue a consolidated stormwater management and erosion  
86 and sediment control permit that is consistent with the provisions of the Erosion and Sediment Control  
87 Law (§ 62.1-44.15:51 et seq.). When available in accordance with subsection J, such permit, where  
88 applicable, shall also include a copy of or reference to state VSMP permit coverage authorization to  
89 discharge.

90 J. Upon the development of an online reporting system by the Department, but no later than July 1,  
91 2014, a VSMP authority shall then be required to obtain evidence of state VSMP permit coverage where  
92 it is required prior to providing approval to begin land disturbance.

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

97 L. All VSMP authorities shall comply with the provisions of this article and the stormwater  
98 management provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and related  
99 regulations. The VSMP authority responsible for regulating the land-disturbing activity shall require  
100 compliance with the issued permit, permit conditions, and plan specifications. The state shall enforce  
101 state permits.