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HOUSE BILL NO. 438

Offered January 13, 2016

Prefiled January 7, 2016

A *BILL to amend the Code of Virginia by adding a section numbered 62.1-44.19:21.1, relating to sediment reduction credits for MS4s.*

Patrons—Bulova and Lingamfelter

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 62.1-44.19:21.1 as follows:

§ 62.1-44.19:21.1. Sediment credit use by regulated MS4s.

A. *Subject to the conditions and limitations of subsections B, C, and D, an MS4 permittee may acquire and use sediment credits for purposes of compliance with any waste load allocations established by total maximum daily loads for the Chesapeake Bay or its tidal tributaries applied in an MS4 permit issued pursuant to § 62.1-44.15:25, where such credit use is part of an integrated compliance plan for the MS4 permittee to address such nutrient and sediment total maximum daily loads.*

B. *Such method of compliance may be approved by the Department following review of an integrated compliance plan submitted by the permittee that includes the use of sediment credits. The permittee may use such credits for compliance purposes only if (i) the credits are generated and applied for purposes of compliance for the same calendar year; (ii) the credits are acquired no later than June 1 immediately following the calendar year to which the credits are applied; (iii) no later than June 1 immediately following the calendar year to which credits are applied, the permittee certifies on a form supplied by the Department that he has acquired sufficient credits to satisfy his compliance obligations; (iv) the credits are generated in the same tributary; and (v) the credits are derived from (a) implementation of best management practices outside of an MS4 service area, in which case the necessary baseline sediment reduction for such land shall be achieved prior to the permittee's use of additional reductions as credit or (b) a point source waste load allocation established by the Chesapeake Bay total maximum daily load, in which case the credit is the difference between the waste load allocation specified as an annual mass load and any lower monitored annual mass load that is discharged as certified on a discharge monitoring report.*

C. *This section shall not be construed to limit or otherwise affect the authority of the Board to establish and enforce more stringent water quality-based effluent limitations in permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.*

D. *The Board may adopt regulations for the purpose of establishing procedures for the certification of nonpoint source sediment credits. Such regulations shall be consistent wherever appropriate with regulations adopted pursuant to § 62.1-44.19:20 for certification of nonpoint source nutrient credits, including the opportunity for public notification and sediment baseline attainment as a condition on generation and use of nonpoint source sediment credits.*

E. *For the purposes of this section, "sediment credit" means a sediment or total suspended solids reduction that is expressed in pounds delivered to tidal waters within the Chesapeake Bay Watershed.*

INTRODUCED

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