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SENATE BILL NO. 576

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL to amend and reenact § 62.1-44.15:31, as it shall become effective, of the Code of Virginia, relating to stream restoration; standards and specifications.*

Patron—Hanger

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:31, as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.15:31. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Standards and specifications for state agencies, federal entities, and other specified entities.

A. As an alternative to submitting soil erosion control and stormwater management plans for its land-disturbing activities pursuant to § 62.1-44.15:34, the Virginia Department of Transportation shall, and any other state agency or federal entity may, submit standards and specifications for its conduct of land-disturbing activities for Department of Environmental Quality approval. Approved standards and specifications shall be consistent with this article. The Department of Environmental Quality shall have 60 days after receipt in which to act on any standards and specifications submitted or resubmitted to it for approval.

B. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, and authorities created pursuant to § 15.2-5102 may submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted. Such standards and specifications may be submitted for the following types of projects:

1. Construction, installation, or maintenance of electric transmission and distribution lines, oil or gas transmission and distribution pipelines, communication utility lines, and water and sewer lines; and

2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

The Department shall have 60 days after receipt in which to act on any standards and specifications submitted or resubmitted to it for approval. A linear project not included in subdivision 1 or 2, or for which the owner chooses not to submit standards and specifications, shall comply with the requirements of the VESMP or the VESCP and VSMP, as appropriate, in any locality within which the project is located.

C. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34, any person engaging in more than one jurisdiction in the creation and operation of a wetland mitigation or stream restoration bank that has been approved and is operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) a wetlands mitigation or stream restoration bank, pursuant to a mitigation banking instrument signed by the Department, the Marine Resources Commission, or the U.S. Army Corps of Engineers, or (ii) a stream restoration project for purposes of reducing nutrients or sediment entering state waters may submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted. The Department shall have 60 days after receipt in which to act on standards and specifications submitted to it or resubmitted to it for approval.

D. All standards and specifications submitted to the Department shall be periodically updated according to a schedule to be established by the Department and shall be consistent with the requirements of this article. Approval of standards and specifications by the Department does not relieve the owner or operator of the duty to comply with any other applicable local ordinances or regulations. Standards and specifications shall include:

1. Technical criteria to meet the requirements of this article and regulations developed under this article;

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

3. Provisions for administration of the standards and specifications program, project-specific plan design, plan review and plan approval, and construction inspection and compliance;

4. Provisions for ensuring that personnel and contractors assisting the owner in carrying out the land-disturbing activity obtain training or qualifications for soil erosion control and stormwater

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59 management as set forth in regulations adopted pursuant to this article;

60 5. Provisions for ensuring that personnel implementing approved standards and specifications
61 pursuant to this section obtain certifications or qualifications comparable to those required for VESMP
62 personnel pursuant to subsection C of § 62.1-44.15:30;

63 6. Implementation of a project tracking system that ensures notification to the Department of all
64 land-disturbing activities covered under this article; and

65 7. Requirements for documenting onsite changes as they occur to ensure compliance with the
66 requirements of this article.

67 E. The Department shall perform random site inspections or inspections in response to a complaint to
68 ensure compliance with this article and regulations adopted thereunder.

69 F. The Department shall assess an administrative charge to cover the costs of services rendered
70 associated with its responsibilities pursuant to this section, including standards and specifications review
71 and approval, project inspections, and compliance. The Board may take enforcement actions in
72 accordance with this article and related regulations.