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SENATE BILL NO. 950

Offered January 19, 2018

A BILL to amend the Code of Virginia by adding in Article 2.2 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.15:23.2, relating to interstate natural gas pipelines; Department of Environmental Quality review; upland construction.

Patrons—Hanger, Deeds, McClellan and Wexton; Delegate: Rasoul

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2.2 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44.15:23.2 as follows:

§ 62.1-44.15:23.2. Separate supplemental review regarding upland impacts.

A. The Department shall determine whether any activity associated with a natural gas pipeline project that is regulated by the Federal Energy Regulatory Commission (FERC) pursuant to § 7 of the federal Natural Gas Act, 15 U.S.C. § 717 et seq., will (i) occur in an upland area, including construction on or in steep slopes, karst geology, proximity to sensitive streams or wetlands, seasonally high water tables, sinkholes or underground springs, water impoundment structures or reservoirs, or areas with highly credible soils, low pH, or acid sulfate soils; (ii) be likely to result in a discharge to state waters or otherwise cause or contribute to an exceedance of Virginia's Water Quality Standards; and (iii) not be covered by the certification required under § 401 of the federal Clean Water Act, 33 U.S.C. § 1251 et seq.

B. For each activity that the Department identifies pursuant to subsection A, the Department shall (i) request additional information from the project owner and (ii) conduct a separate supplemental review of the project with respect to upland impacts that may indirectly affect state waters. If such review results in a determination that additional conditions may be necessary to protect water quality beyond the conditions that are required or can be imposed by the Virginia Water Protection Permit Program or a permit issued by the U.S. Army Corps of Engineers, including any applicable Nationwide Permit, or conditions otherwise imposed by FERC, then the Department shall (a) make a recommendation to the Board for additional conditions on upland activities and (b) develop a draft certification that contains any additional conditions for activities in upland areas necessary to protect water quality.

C. For any interstate natural gas pipeline, the Board shall require both a Virginia Water Protection Permit and an Individual Water Quality Certification under § 401 of the federal Clean Water Act, 33 U.S.C. § 1251 et seq. Prior to issuing either such permit or certification, the Board shall conduct a review that includes, at a minimum, (i) an individual review of each proposed water body crossing consistent with the requirements of a Virginia Water Protection Permit, (ii) a review of any construction through karst terrain, and (iii) a review and approval of erosion and sediment control plans and stormwater management plans.

2. That the State Water Control Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

INTRODUCED

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