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SENATE BILL NO. 767

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend the Code of Virginia by adding in Article 2.1 of Chapter 14 of Title 10.1 a section numbered 10.1-1413.3, relating to coal combustion residuals surface impoundments; flaws in closure plans; delay of permit.

Patrons—Surovell, Ebbin, Carroll Foy and Chase; Delegate:

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 2.1 of Chapter 14 of Title 10.1 a section numbered 10.1-1413.3 as follows:

§ 10.1-1413.3. Closure of certain coal ash ponds; insufficiency in plan.

A. As used in this section:

"Coal ash pond" means any impoundment or other accumulation of coal combustion by-products that is located in the Chesapeake Bay watershed and is constructed or utilized by an electric utility or independent power producer to hold, dispose of, treat, or store coal combustion by-products.

"Owner" means an investor-owned public electric utility that owns, operates, or plans to close a coal ash pond.

B. If the Department determines that any plan submitted by the owner of a coal ash pond for the closure of such coal ash pond shows any insufficiency or flaw, including a failure to address or account for (i) the possibility of leakage or contamination of groundwater or surface water located at or stemming from the coal ash pond or (ii) any long-term risk posed by the proposed closure plan and siting, including risks related to extreme weather events, flooding, hurricanes, storm surges, or erosive forces, the Director may (a) suspend, delay, or defer the issuance of any permit to provide for the closure of the coal ash pond; (b) mandate corrective actions, including the removal of the coal combustion by-products to lined landfills consistent with 40 C.F.R. Part 258, the removal of the coal combustion by-products for beneficial reuse in encapsulated cement and concrete products, or the construction of preventive measures, to resolve the insufficiency or flaw in the plan; and (c) decline to issue the permit until such mandatory corrective actions are complied with and the insufficiency or flaw is fully addressed.

C. Prior to issuing any solid waste permit related to the closure of any coal ash pond, the Department shall conduct a public hearing and consider the comments and recommendations of residents of the locality in which the coal ash pond is located regarding topics including the conditions and requirements of any such permit issued by the Department. The Department shall impose reasonable conditions and requirements on a solid waste permit based on the residents' comments and recommendations.