

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 959

An Act to amend the Code of Virginia by adding in Chapter 11 of Title 10.1 an article numbered 14, consisting of sections numbered 10.1-1181.13, 10.1-1181.14, and 10.1-1181.15, relating to voluntary forest mitigation agreements.

[S 674]

Approved April 9, 2020

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 11 of Title 10.1 an article numbered 14, consisting of sections numbered 10.1-1181.13, 10.1-1181.14, and 10.1-1181.15, as follows:

Article 14.

Voluntary Forest Mitigation.

§ 10.1-1181.13. Definitions.

As used in this article, unless the context requires a different meaning:

"Construction project" means any land-disturbing activity that involves construction of infrastructure, including interstate highways, pipelines, or energy generation and transmission facilities.

"Forest mitigation" means addressing the direct and indirect adverse impacts to forests that may be caused by a construction project by avoiding and minimizing impacts to the extent practicable and then compensating for the remaining impacts.

§ 10.1-1181.14. Applicability.

The provisions of this article shall not apply to any forest mitigation required by law or to any mitigation agreements entered into before July 1, 2020.

§ 10.1-1181.15. Forest mitigation agreements.

A. The Secretary of Natural Resources, the Secretary of Agriculture and Forestry, or any agency within those secretariats, or the Virginia Outdoors Foundation may enter into an agreement with the owner or operator of construction projects to accomplish forest mitigation. At a minimum, any such agreement shall:

1. Document the extent to which the construction project has been designed to avoid and minimize adverse impacts to forests;

2. Provide funding for compensation for impacts that approximates at least no net loss of forest acreage and function;

3. Provide for the payment of such funds by the owner or operator to a nonprofit organization, the Virginia Outdoors Foundation, or an agency within the secretariats of Agriculture and Forestry or Natural Resources. The recipient of the funds shall establish criteria for the expenditure of the funds, shall provide such criteria to the public, and shall regularly provide to the public updated information on how funds are spent; and

4. Ensure that expenditures of the funds occur in reasonable proximity to the forest impacts that are caused by the construction project. Reasonable proximity shall be determined by the recipient of the funds and shall be based on appropriate ecological boundaries, with consideration given to communities adversely affected by the construction project.

B. Nothing in this section shall preclude the expenditure of funds (i) by the recipient of the funds for the costs of administration of the funds or (ii) for water quality protection and improvement, land conservation, or environmental education.

C. No agreement entered into pursuant to this article shall identify any specific expenditure.

D. No agreement entered into pursuant to this article shall include any waiver of liability for environmental damage caused by the construction project. No agreement entered into under this article shall guarantee regulatory approval for a construction project by any state agency.

E. No forest mitigation agreement entered into pursuant to this article shall prohibit sustainable forest management on a property receiving funding except as necessary to comply with a requirement of the Commonwealth that specific conservation values be protected on such property.