

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 555

An Act to amend and reenact § 10.1-563 of the Code of Virginia, relating to the annual filing by linear utilities of Erosion and Sediment Control Plans with the Department of Conservation and Recreation.

[H 2443]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That § 10.1-563 of the Code of Virginia is amended and reenacted as follows:

§ 10.1-563. Regulated land-disturbing activities; submission and approval of control plan.

A. Except as provided in § 10.1-564, no person may engage in any land-disturbing activity until he has submitted to the district or locality an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program an erosion and sediment control plan may, at the option of the applicant, be submitted to the Board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the plan-approving authority.

B. The plan-approving authority shall review conservation plans submitted to it and grant written approval within forty-five days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article.

When a plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within forty-five days. The notice shall specify the modifications, terms and conditions that will permit approval of the plan. If no action is taken by the plan-approving authority within the time specified above, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

C. An approved plan may be changed by the authority that approved the plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
2. Where the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article, are agreed to by the plan-approving authority and the person responsible for carrying out the plan.

D. Electric, *natural gas* and telephone utility companies, *interstate and intrastate natural gas pipeline companies* and railroad companies shall file general erosion and sediment control specifications annually with the Board for review and ~~written comments~~ *approval*. The specifications shall apply to:

1. Construction, installation or maintenance of electric *transmission, natural gas* and telephone utility lines *and pipelines*; and
2. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

The Board shall have sixty days in which to ~~comment~~ *approve the specifications*. *If no action is taken by the Board within sixty days, the specifications shall be deemed approved.* Individual approval of separate projects within subdivisions 1 and 2 of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 of this subsection shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications.

E. In order to prevent further erosion a local program may require approval of a conservation plan for any land identified in the local program as an erosion impact area.

F. For the purposes of subsections A and B of this section, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of an erosion and sediment control plan shall be the responsibility of the owner.