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SENATE BILL NO. 598

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 4, 2016)

(Patron Prior to Substitute—Senator DeSteph)

A BILL to amend and reenact § 62.1-44.15:52 of the Code of Virginia, relating to erosion and sediment control; stormwater management.

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:52 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.15:52. Virginia Erosion and Sediment Control Program.

A. The Board shall develop a program and adopt regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) for the effective control of soil erosion, sediment deposition, and nonagricultural runoff that shall be met in any control program to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. Stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or § 62.1-44.15:54 or 62.1-44.15:65. Any plan approved prior to July 1, 2014, that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one-year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirement for natural or man-made channels as defined in regulations promulgated pursuant to § 62.1-44.15:54 or 62.1-44.15:65. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements of this subsection shall be satisfied by compliance with water quantity requirements in the Stormwater Management Act (§ 62.1-44.15:24 et seq.) and attendant regulations, unless such land-disturbing activities (a) are in accordance with the grandfathering or time limits on applicability of approved design criteria provisions of the Virginia Stormwater Management Program (VSMP) Permit Regulations or exempt, in which case the flow rate capacity and velocity requirements of this subsection shall apply, or (b) are exempt pursuant to subdivision C 7 of § 62.1-44.15:34.

The regulations shall:

1. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including, but not limited to, data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

2. Include such survey of lands and waters as may be deemed appropriate by the Board or required by any applicable law to identify areas, including multijurisdictional and watershed areas, with critical erosion and sediment problems; and

3. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of erosion and sediment resulting from land-disturbing activities.

B. The Board shall provide technical assistance and advice to, and conduct and supervise educational programs for VESCP authorities.

C. The Board shall adopt regulations establishing minimum standards of effectiveness of erosion and sediment control programs, and criteria and procedures for reviewing and evaluating the effectiveness of VESCPs. In developing minimum standards for program effectiveness, the Board shall consider information and standards on which the regulations promulgated pursuant to subsection A are based.

D. The Board shall approve VESCP authorities and shall periodically conduct a comprehensive program compliance review and evaluation to ensure that all VESCPs operating under the jurisdiction of this article meet minimum standards of effectiveness in controlling soil erosion, sediment deposition, and nonagricultural runoff. The Department shall develop a schedule for conducting periodic reviews and evaluations of the effectiveness of VESCPs unless otherwise directed by the Board. Such reviews where applicable shall be coordinated with those being implemented in accordance with the Stormwater Management Act (§ 62.1-44.15:24 et seq.) and associated regulations and the Chesapeake Bay

60 Preservation Act (§ 62.1-44.15:67 et seq.) and associated regulations. The Department may also conduct
61 a comprehensive or partial program compliance review and evaluation of a VESCP at a greater
62 frequency than the standard schedule.

63 E. The Board shall issue certificates of competence concerning the content, application, and intent of
64 specified subject areas of this article and accompanying regulations, including program administration,
65 plan review, and project inspection, to personnel of program authorities and to any other persons who
66 have completed training programs or in other ways demonstrated adequate knowledge. The Department
67 shall administer education and training programs for specified subject areas of this article and
68 accompanying regulations, and is authorized to charge persons attending such programs reasonable fees
69 to cover the costs of administering the programs. Such education and training programs shall also
70 contain expanded components to address plan review and project inspection elements of the Stormwater
71 Management Act (§ 62.1-44.15:24 et seq.) and attendant regulations in accordance with § 62.1-44.15:30.

72 F. Department personnel conducting inspections pursuant to this article shall hold a certificate of
73 competence as provided in subsection E.