

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 An Act to amend the Code of Virginia by adding a section numbered 62.1-44.19:21.2, relating to
3 nutrient and sediment credit generation and transfer.

[S 747]

Approved

6 Be it enacted by the General Assembly of Virginia:

7 1. That the Code of Virginia is amended by adding a section numbered 62.1-44.19:21.2 as follows:
8 § 62.1-44.19:21.2. *Nutrient and sediment credit generation and transfer; public body.*

9 A. Except as provided in subsection B, the only nonpoint nutrient credits that shall be transferred
10 pursuant to either (i) § 62.1-44.15:35 or (ii) subsections B, C, and D of § 62.1-44.19:21 are nutrient
11 credits generated by the private sector, including credits generated by the private sector pursuant to an
12 agreement with a public body.

13 B. Other than for purposes of subsection A of § 62.1-44.19:21, nutrient credits or sediment credits
14 generated by a project undertaken by a public body, including a locality, and certified by the
15 Department shall be used only by such public body and only for the purpose of compliance with the
16 provisions of this chapter by such public body's project. For the purposes of this subsection, the term
17 "public body's project" means a project for which the public body is the named permittee and for which
18 no third party conducts any lease, sale, grant, transfer, or use of the project or its nutrient or sediment
19 credits.

20 C. Any publicly owned treatment works that is permitted under the Watershed General Virginia
21 Pollutant Discharge Elimination System (VPDES) Permit pursuant to § 62.1-44.19:14 and is
22 constructing or expanding the treatment works, wastewater collection system, or other facility used for
23 public wastewater utility operations may, as an alternative to acquiring and using certain perpetual
24 nutrient credits pursuant to subsection B of § 62.1-44.19:21, permanently retire a portion of its
25 wasteload allocation if (i) notice is given by such applicant to the Department, (ii) a ratio of 10 pounds
26 of nitrogen allocation for each pound of phosphorous allocation retired is also permanently retired and
27 applied toward the land-disturbing project, and (iii) the general permit registration list is modified to
28 reflect the permanent retirement of the wasteload allocation. Except for a water reclamation and reuse
29 project at a treatment works, no more than 10 pounds per year of phosphorous allocation may be
30 applied toward a single project's postconstruction phosphorus control requirement.

31 D. Nothing in this section shall be construed to prevent any (i) public body, including a locality,
32 from entering into an agreement with a private third party for the development of a project to generate
33 nonpoint nutrient credits on terms and conditions upon which the public body and private third party
34 agree or (ii) locality from operating a locality pollutant loading pro rata share program for nutrient
35 reductions established pursuant to § 15.2-2243.

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