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SENATE BILL NO. 1311

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on February 4, 2021)

(Patron Prior to Substitute—Senator McClellan)

A *BILL to amend and reenact § 62.1-44.15:81 of the Code of Virginia, relating to water quality standards; modification of permits and certifications.*

Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:81 of the Code of Virginia is amended and reenacted as follows:

§ 62.1-44.15:81. Application and preparation of draft certification conditions.

A. Any applicant for a federal license or permit for a natural gas transmission pipeline greater than 36 inches inside diameter subject to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) shall submit a separate application, at the same time the Joint Permit Application is submitted, to the Department containing a description of all activities that will occur in upland areas, including activities in or related to (i) slopes with a grade greater than 15 10 percent; (ii) karst geology features, including sinkholes and underground springs; (iii) proximity to sensitive streams and wetlands identified by the Department of Conservation and Recreation or the Department of Wildlife Resources; (iv) seasonally high water tables; (v) water impoundment structures and reservoirs; and (vi) areas with highly erodible soils, low pH, and acid sulfate soils. *The applicant shall submit in the application a detailed erosion and sediment control plan and stormwater management plan in accordance with applicable regulations and subject to Department review, modification, or approval.*

B. At any time during the review of the application, but prior to issuing a certification pursuant to this article, the Department may issue an information request to the applicant for any relevant additional information necessary to determine (i) if any activities related to the applicant's project in upland areas are likely to result in a discharge to state waters and (ii) how the applicant proposes to minimize water quality impacts to the maximum extent practicable to protect water quality. The information request shall provide a reasonable amount of time for the applicant to respond.

C. The Department shall review the information contained in the application and any additional information obtained through any information requests issued pursuant to subsection B to determine if any activities described in the application or in any additional information requests (i) are likely to result in a discharge to state waters with the potential to adversely impact water quality and (ii) will not be addressed by the Virginia Water Protection Permit issued for the activity pursuant to Article 2.2 (§ 62.1-44.15:20 et seq.). The Department of Wildlife Resources, the Department of Conservation and Recreation, the Department of Health, and the Department of Agriculture and Consumer Services shall consult with the Department during the review of the application and any additional information obtained through any information requests issued pursuant to subsection B. Following the conclusion of its review, the Department shall develop a draft certification, *including the erosion and sediment control plan and stormwater management plan approved pursuant to subsection D*, for public comment and potential issuance by the Department or the Board pursuant to § 62.1-44.15:02 that contains any additional conditions for activities in upland areas necessary to protect water quality. The Department shall make the information contained in the application and any additional information obtained through any information requests issued pursuant to subsection B available to the public.

D. Notwithstanding any applicable annual standards and specifications for erosion and sediment control or stormwater management pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) or 2.4 (§ 62.1-44.15:51 et seq.), the applicant shall not commence land-disturbing activity prior to approval by the Department of an erosion and sediment control plan and stormwater management plan in accordance with applicable regulations. The Department shall act on any plan submittal within 60 days after initial submittal of a completed plan to the Department. The Department may issue either approval or disapproval and shall provide written rationale for ~~any disapproval~~ *its decision*. The Department shall act on any plan that has been previously disapproved within 30 days after the plan has been revised and resubmitted for approval. *The Board shall not waive certification of natural gas transmission pipelines greater than 36 inches inside diameter under § 401 of the federal Clean Water Act (33 U.S.C. § 1341). The Department shall deny certification under this article if the Department does not approve, within a reasonable time, erosion and sediment control and stormwater management plans that provide reasonable assurance that the pipeline project will comply with state water quality standards.*

E. No action by either the Department or the Board on a certification pursuant to this article shall alter the siting determination made through Federal Energy Regulatory Commission or State Corporation Commission approval.

F. The Department shall assess an administrative charge to the applicant to cover the direct costs of

60 services rendered associated with its responsibilities pursuant to this section.