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SENATE BILL NO. 1178

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources
on January 31, 2023)

(Patron Prior to Substitute—Senator Lewis)

A *BILL to direct the Department of Environmental Quality to include specifications relating to certain activities for stormwater management and erosion and sediment control related to the installation of permanent gravel access roads by an electric utility in the next publication of the Department of Environmental Quality's Virginia Stormwater Management Handbook.*

Be it enacted by the General Assembly of Virginia:

1. § 1. As used in this act, "electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

§ 2. The Department of Environmental Quality (the Department) shall include specifications for stormwater management and erosion and sediment control for the installation of permanent gravel access roads by an electric utility for the purpose of construction and maintenance of electric transmission lines in the next publication of the Department's Virginia Stormwater Management Handbook (the Handbook). Such specifications shall be developed after seeking input from electric utility representatives. Any electric utility that complies with the Handbook's specifications for stormwater management and erosion and sediment control for the installation of a permanent gravel access road for the purpose of construction and maintenance of electric transmission lines shall be deemed to satisfy the water quantity technical criteria in the Stormwater Management Act pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

An electric utility may provide in its annual standards and specifications reasonable assurance that the specifications in the Handbook will be satisfied. The electric utility may achieve such reasonable assurance by incorporating the applicable specifications from the Handbook into a stormwater management plan and an erosion and sediment control plan developed for a project to install a permanent gravel access road under its annual standards and specifications.

§ 3. Until the effective date of the next publication of the Handbook, any new permanent gravel access road associated with the construction and maintenance of electric transmission lines by an electric utility shall be deemed to have satisfied the required water quantity technical criteria if (i) the maximum width of the permanent gravel access road is no more than 14 feet with passing areas not more than 100 feet in length and 24 feet in width every 2,000 feet, on average; (ii) the permanent gravel access road follows the contour of the natural terrain to the extent possible and slopes should not exceed 10 percent; (iii) the permanent gravel access road is constructed using clean, open-graded, angular aggregate at a depth of no less than six inches; and (iv) the following conditions are met:

1. The project is managed so that during construction of the permanent gravel access road the area of land-disturbing activity is less than one acre;

2. The area where land-disturbing activity has been completed is adequately stabilized prior to initiating construction of the gravel access road on the next area subject to land-disturbing activity. "Adequately stabilized" means compliance with Standard and Specification 3.36 in the 1992 Virginia Erosion and Sediment Control Handbook;

3. The environment is protected from erosion and sedimentation damage associated with the land-disturbing activity; and

4. The project owner or construction activity operator designs, installs, implements, and maintains pollution prevention measures to (i) minimize the discharge of pollutants from equipment and vehicle wash water, wheel wash water, and other wash waters; (ii) minimize the exposure of building materials, building products, construction waste, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on site to precipitation and to stormwater; (iii) minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures; (iv) prohibit the discharge of wastewater from the washout of concrete; (v) prohibit the discharge of wastewater from the washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials; and (vi) prohibit the discharge of fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance.

The electric utility shall provide in its annual standards and specifications reasonable assurance that such conditions will be satisfied. The electric utility may achieve such reasonable assurance by incorporating the conditions of this section into an erosion and sediment control plan developed for the project under the utility's annual standards and specifications.