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HOUSE BILL NO. 387

Offered January 14, 2026

Prefiled January 12, 2026

A BILL to amend and reenact § 62.1-44.15:5.02 of the Code of Virginia, relating to the Occoquan Reservoir; low-flow protections for drinking water safe yield.

Patron—Krizek

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:**1. That § 62.1-44.15:5.02 of the Code of Virginia is amended and reenacted as follows:****§ 62.1-44.15:5.02. Low-flow protections in Potomac River and Occoquan Reservoir.**

A. 1. Virginia Water Protection Permits issued after July 1, 2007, authorizing withdrawal of water from the Potomac River or its tributaries between the West Virginia border and Little Falls for any purpose other than municipal water supply, shall incorporate low-flow protection requirements if the maximum consumptive use allowed by the permit exceeds 500,000 gallons per day. Such permits shall require that the permittee provide or secure sufficient offstream storage to augment instream flow during low-flow periods in an amount equal to the amount that the permittee's consumptive use exceeds 500,000 gallons per day. The permit shall specify the instream flow volume at which low-flow protection is to be implemented.

B. 2. Permittees may comply with the requirements of this ~~section~~ subsection by: (i) constructing or acquiring facilities for offstream storage of water that may be used to replace their consumptive use withdrawals exceeding 500,000 gallons per day during low-flow periods; (ii) purchasing storage capacity in facilities owned by another entity, sufficient to replace their consumptive use withdrawals exceeding 500,000 gallons per day during low-flow periods; or (iii) agreeing to a permit condition limiting consumptive use to not more than 500,000 gallons per day during low-flow periods as designated in the permit.

C. 3. No owner who holds a Virginia Water Protection Permit as described in this ~~section~~ subsection shall withdraw water for consumptive use in excess of 500,000 gallons per day, except in compliance with permit requirements for low-flow augmentation.

D. 4. Should the implementation of emergency measures pursuant to applicable law, regulation, or interjurisdictional agreement require more stringent temporary restrictions on consumptive use, those requirements shall override the provisions of permits issued pursuant to this ~~section~~ subsection during the period that such requirements are in effect.

E. 5. The requirements of this ~~section~~ subsection shall not apply to the reissuance or amendment of any Virginia Water Protection Permit issued prior to July 1, 2007, unless such reissuance or amendment: (i) authorizes an increase in the permitted withdrawal in excess of 500,000 gallons per day for consumptive use; or (ii) authorizes a change from nonconsumptive to consumptive use, in excess of 500,000 gallons per day.

6. No new Virginia Water Protection Permit shall be issued after July 1, 2026, authorizing withdrawal of water for consumptive uses from the Occoquan Reservoir, the Occoquan River, Bull Run, or any of their tributaries above the Occoquan Reservoir, other than upon application for a permit for agricultural or irrigation purposes or for continued operation, expansion, or relocation of existing public water supply withdrawals.

B. 1. Virginia Pollutant Discharge Elimination System Permits issued or reissued after July 1, 2026, authorizing diversion of sewage or reclaimed water from a publicly owned treatment works for reuse that would otherwise discharge into the Occoquan Reservoir, the Occoquan River, Bull Run, or any of their tributaries above the Occoquan Reservoir, shall incorporate the low-flow protection requirements in subdivision 2 for drinking water safe yield if the total diversion amount allowed by the permits exceeds 500,000 gallons per day.

2. Such permits shall require (i) that the permittee not divert more than a total of 500,000 gallons per day for consumptive use and (ii) that any amount diverted in excess of 500,000 gallons per day (a) be returned in the same quantity following its use, either directly by the user discharging to the Occoquan Reservoir, the Occoquan River, Bull Run, or any of their tributaries above the Occoquan Reservoir, or indirectly by the user discharging to a treatment works that discharges to such waters and (b) upon return be of a quality equal to or better than the quality of the effluent discharged from the publicly owned treatment works from which it was originally diverted.

3. No owner who holds a Virginia Pollutant Discharge Elimination System Permit as described in this subsection shall divert sewage or reclaimed water in excess of 500,000 gallons per day, except in compliance with the foregoing requirements for low-flow protections for drinking water safe yield.

4. Should the implementation of emergency measures pursuant to applicable law, regulation, or

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59 *interjurisdictional agreement require more stringent temporary restrictions on consumptive use, such*
60 *measures shall override the provisions of permits issued pursuant to this subsection during the period that*
61 *such measures are in effect.*

62 *5. Should the implementation of requirements established pursuant to subdivision 15 of § 62.1-44.15 for*
63 *the reclamation and reuse of wastewater require more stringent restrictions on consumptive or*
64 *nonconsumptive uses, such requirements shall override the provisions of permits issued pursuant to this*
65 *subsection.*