



<http://www.deq.virginia.gov/Programs/Water/ProtectionRequirementsforPipelines/ACP.aspx>

Atlantic Coast Pipeline

Process for Report to the State Water Control Board

On December 12, 2017, the State Water Control Board (board) approved issuance of a Section 401 water quality certification (certification) for upland activities for the proposed Atlantic Coast Pipeline (ACP). The certification was issued to ACP on December 20, 2017. The board included a delayed effective date based on submission and approval of specific information: *"This certification shall be effective only following submission, review and final approval as required by law of the Karst Mitigation Plan (Supplemental Karst Evaluation Plan), Annual Standards and Specifications, and Erosion and Sediment Control Plans and Stormwater Management Plans, and a report to the Board and the public by DEQ on the adequacy of these materials."*

This certification requires additional conditions to protect water quality in upland areas and address certain environmental concerns not addressed by existing laws and regulations. This certification is part of the most rigorous regulatory process to which a proposed pipeline has been subjected in Virginia. Since the board meeting, several questions have been raised regarding the process(es) for the review and approval of the Supplemental Karst Evaluation Plan, annual standards and specifications, and erosion and sediment control plans and stormwater management plans and submittal of DEQ's report to the board and the public.

The certification approved by the Board and reviewed by our attorneys is in place and becomes effective upon the issuance of the Department's report to the Board and the public. By law the Erosion, Sediment and Stormwater approvals upon which the effective date is conditioned are approved by certified staff and those approvals are not under the State Water Control Board's purview.

The following information provides additional details.

Supplemental Karst Evaluation Plan

The measures detailed in the Karst Terrain Assessment, Construction, Monitoring and Mitigation Plan approved by the Federal Energy Regulatory Commission (FERC) and included as an enforceable part of the certification address many of the concerns associated with karst features. DEQ and the Virginia Department of Conservation and Recreation (DCR) identified several additional measures needed to further protect water quality in karst areas. The Supplemental Karst Evaluation Plan required in the certification Section V, condition 3.c., requires submission of a plan to further evaluate flow paths for karst features in the vicinity of the project. The specific karst features of concern were identified by DEQ and DCR in the June 15, 2017 request for information letter. The evaluation of flow paths is accomplished using dye trace studies to determine hydrological connections and relationships associated with sensitive karst features at risk from construction and operation of the pipeline. Such studies will greatly aid in spill response and recovery in the unlikely event of a discharge of sediment or chemical contaminants. DEQ and DCR will review the plan and dye trace study results and any associated monitoring and contingency measures. If approved by DEQ, information on the adequacy of the Supplemental Karst Evaluation Plan will be included in the report to the board.

Annual standards and specifications for pipelines

The annual standards and specifications program was reviewed by DEQ for consistency with the requirements of the Virginia Erosion and Sediment Control Law and the Virginia Stormwater Management Act and their associated regulations. The annual standards and specifications were approved by DEQ on July 5, 2017. No further review process is required for this program. Information on the adequacy of the approved annual standards and specifications program will be included in the report to the board.

Erosion and sediment control plans and stormwater management plans

DEQ required ACP to submit detailed, project-specific erosion and sedimentation control (ESC) and stormwater management (SWM) plans that comply with Virginia's stormwater, erosion and sediment control regulations for every foot of land disturbance related to pipeline construction, including access roads and construction lay-down areas. While Virginia law does not provide for public notice of and comment on ESC and SWM plans, DEQ, in order to provide a transparent review process and public participation, required ACP to post the plans on its website. DEQ requested public input on technical and engineering requirements of the draft ESC and SWM plans. The public input opportunity on the site-specific plans closed on October 13, 2017, and DEQ's certified plan reviewers are reviewing the plans for compliance with Virginia's stormwater and erosion and sediment control regulations. All ESC and SWM plans need to be approved by DEQ before the certification becomes effective and construction can begin. If DEQ approves the plans, information on the adequacy of the ESC and SWM plans will be included in the report to the board.

Additional information

No additional information is being accepted from the public. DEQ has not imposed any specific deadlines on ACP for the submittal of information other than those included in the certification. The deadline for submitting information necessary for the certification to become effective is at the discretion of ACP. Therefore, an estimate for the delivery and publication of the written report to the board has not been made.

Report to the board

The annual standards and specifications for ACP were approved on July 5, 2017. If DEQ approves the Supplemental Karst Evaluation Plan, erosion and sediment control plans and stormwater management plans, DEQ will prepare a report to the board on the adequacy of the approved materials. The report will be submitted to the board upon completion and concurrently made available to the public by posting of the report on DEQ's website. The report will be a compilation of factual information on actions taken by DEQ in accordance with the board-approved certification; and, as such will not be the subject of a public comment period.

Review by the board

Upon submittal of the report documenting approval of the, Supplemental Karst Evaluation Plan annual standards and specifications, erosion and sediment control plans, and stormwater management plans, Virginia's Section 401 water quality certification for activities in upland areas becomes effective. No further action by the board is required for the certification to become effective. As provided in the certification, the board may, after review of the report, consider further actions on the certification. The matter is before the board at its discretion without additional public comment on whether further action is warranted. When or if the certification will be an agenda item at a future board meeting is unknown at this time.

DEQ has been diligent, and will continue to be diligent, to ensure that all appropriate practices are in place to meet all water quality challenges identified. DEQ has worked, and will continue to work, to make sure the agency has met and will meet all the requirements of state and federal law for which it is responsible. If the Atlantic Coast Pipeline proceeds, DEQ will hold the developers to the highest standards for which they are accountable.