

SENATE BILL NO. 657

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Agriculture, Conservation and Natural Resources

on \_\_\_\_\_)

(Patron Prior to Substitute--Senator Stuart)

A BILL to amend and reenact §§ 3.2-401, 10.1-1186.3, 10.1-1306 through 10.1-1307.02, 10.1-1307.04, 10.1-1308.1 through 10.1-1314, 10.1-1315, 10.1-1316, 10.1-1318, 10.1-1320, 10.1-1320.1, 10.1-1322, 10.1-1322.4, 10.1-1333, 15.2-2403.3, as it may become effective, 15.2-5101, 28.2-1205.1, 46.2-1601, 62.1-44.3, as it is currently effective and as it may become effective, 62.1-44.14, 62.1-44.15:81, 62.1-44.15:83, 62.1-104, 62.1-242, and 62.1-255 of the Code of Virginia; to amend the Code of Virginia by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44-6.1, and by adding sections numbered 62.1-248.2 and 62.1-263.1; and to repeal §§ 10.1-1322.01 and 62.1-44.15:02 of the Code of Virginia, relating to Air Pollution Control Board and State Water Control Board; authority of Department of Environmental Quality.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-401, 10.1-1186.3, 10.1-1306 through 10.1-1307.02, 10.1-1307.04, 10.1-1308.1 through 10.1-1314, 10.1-1315, 10.1-1316, 10.1-1318, 10.1-1320, 10.1-1320.1, 10.1-1322, 10.1-1322.4, 10.1-1333, 15.2-2403.3, as it may become effective, 15.2-5101, 28.2-1205.1, 46.2-1601, 62.1-44.3, as it is currently effective and as it may become effective, 62.1-44.14, 62.1-44.15:81, 62.1-44.15:83, 62.1-104, 62.1-242, and 62.1-255 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 3.1 of Title 62.1 a section numbered 62.1-44-6.1, and by adding sections numbered 62.1-248.2 and 62.1-263.1 as follows:**

**§ 3.2-401. Exclusions from chapter.**

This chapter shall not apply to any agricultural activity to which: (i) Article 12 (§ 10.1-1181.1 et seq.) of Chapter 11 of Title 10.1; or (ii) a water-related permit issued by the ~~State Water Control Board,~~ Department of Environmental Quality applies.

27           **§ 10.1-1186.3. Additional powers of Boards and the Department; mediation; alternative**  
28 **dispute resolution.**

29           A. The State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste  
30 Management Board, in their discretion, or the Director, in his discretion, may employ mediation as defined  
31 in § 8.01-581.21, or a dispute resolution proceeding as defined in § 8.01-576.4, in appropriate cases to  
32 resolve underlying issues, reach a consensus, or compromise on contested issues. An "appropriate case"  
33 means any process related to the development of a regulation by the Board or the issuance of a permit by  
34 the Department in which it is apparent that there are significant issues of disagreement among interested  
35 persons and for which the Board or the Department finds that the use of a mediation or dispute resolution  
36 proceeding is in the public interest. The Boards or the Department shall consider not using a mediation or  
37 dispute resolution proceeding if:

38           1. A definitive or authoritative resolution of the matter is required for precedential value, and such  
39 a proceeding is not likely to be accepted generally as an authoritative precedent;

40           2. The matter involves or may bear upon significant questions of state policy that require additional  
41 procedures before a final resolution may be made, and such a proceeding would not likely serve to develop  
42 a recommended policy for the ~~Board~~ Department;

43           3. Maintaining established policies is of special importance, so that variations among individual  
44 decisions are not increased and such a proceeding would not likely reach consistent results among  
45 individual decisions;

46           4. The matter significantly affects persons or organizations who are not parties to the proceeding;

47           5. A full public record of the proceeding is important, and a mediation or dispute resolution  
48 proceeding cannot provide such a record; and

49           6. The Board or the Department must maintain continuing jurisdiction over the matter with the  
50 authority to alter the disposition of the matter in light of changed circumstances, and a mediation or dispute  
51 resolution proceeding would interfere with the Department or the Board's fulfilling that requirement.

52           Mediation and alternative dispute resolution as authorized by this section are voluntary procedures  
53 which supplement rather than limit other dispute resolution techniques available to the Boards or the

54 Department. Mediation or a dispute resolution proceeding may be employed in the issuance of a permit  
55 only with the consent and participation of the permit applicant and shall be terminated at the request of  
56 the permit applicant.

57 B. The decision to employ mediation or a dispute resolution proceeding is in a Board's or the  
58 Department's sole discretion and is not subject to judicial review.

59 C. The outcome of any mediation or dispute resolution proceeding shall not be binding upon a  
60 Board or the Department, but may be considered by ~~a Board~~ the Department in issuing a permit or by a  
61 Board in promulgating a regulation.

62 D. Each Board and the Department shall adopt rules and regulations, in accordance with the  
63 Administrative Process Act, for the implementation of this section. Such rules and regulations shall  
64 include: (i) standards and procedures for the conduct of mediation and dispute resolution, including an  
65 opportunity for interested persons identified by the ~~Board~~ Department to participate in the proceeding; (ii)  
66 the appointment and function of a neutral, as defined in § 8.01-576.4, to encourage and assist parties to  
67 voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of  
68 papers, work product or other materials.

69 E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute  
70 resolution proceeding shall govern all such proceedings held pursuant to this section except where the  
71 Department or a Board uses or relies on information obtained in the course of such proceeding in issuing  
72 a permit or promulgating a regulation, respectively.

73 Nothing in this section shall create or alter any right, action or cause of action, or be interpreted or  
74 applied in a manner inconsistent with the Administrative Process Act (§ 2.2-4000 et seq.), with applicable  
75 federal law or with any applicable requirement for the Commonwealth to obtain or maintain federal  
76 delegation or approval of any regulatory program.

77 **§ 10.1-1306. Inspections, investigations, etc.**

78 The ~~Board~~ Department shall make, or cause to be made, such investigations and inspections and  
79 do such other things as are reasonably necessary to carry out the provisions of this chapter, within the  
80 limits of the appropriations, study grants, funds, or personnel which are available for the purposes of this

81 chapter, including the achievement and maintenance of such levels of air quality as will protect human  
82 health, welfare and safety and to the greatest degree practicable prevent injury to plant and animal life and  
83 property and which will foster the comfort and convenience of the people of the Commonwealth and their  
84 enjoyment of life and property and which will promote the economic and social development of the  
85 Commonwealth and facilitate enjoyment of its attractions.

86 **§ 10.1-1307. Further powers and duties of Board and Department.**

87 A. The Board shall have the power to control and regulate its internal affairs; The Department  
88 shall have the power to initiate and supervise research programs to determine the causes, effects, and  
89 hazards of air pollution; initiate and supervise statewide programs of air pollution control education;  
90 cooperate with and receive money from the federal government or any county or municipal government,  
91 and receive money from any other source, whether public or private; develop a comprehensive program  
92 for the study, abatement, and control of all sources of air pollution in the Commonwealth; and advise,  
93 consult, and cooperate with agencies of the United States and all agencies of the Commonwealth, political  
94 subdivisions, private industries, and any other affected groups in furtherance of the purposes of this  
95 chapter.

96 B. The Board may adopt by regulation emissions standards controlling the release into the  
97 atmosphere of air pollutants from motor vehicles, only as provided in § 10.1-1307.05 and Article 22 (§  
98 46.2-1176 et seq.) of Chapter 10 of Title 46.2.

99 C. After any regulation has been adopted by the Board pursuant to § 10.1-1308, ~~it~~ the Department  
100 ~~may in its discretion~~ grant local variances therefrom, if it finds after an investigation and hearing that local  
101 conditions warrant. If local variances are permitted, ~~the Board~~ Department shall issue an order to this  
102 effect. Such order shall be subject to revocation or amendment at any time if ~~the Board~~ Department, after  
103 a hearing, determines that the amendment or revocation is warranted. Variances and amendments to  
104 variances shall be adopted only after a public hearing has been conducted pursuant to the public  
105 advertisement of the subject, date, time, and place of the hearing at least 30 days prior to the scheduled  
106 hearing. The hearing shall be conducted to give the public an opportunity to comment on the variance.

107 D. After the Board has adopted the regulations provided for in § 10.1-1308, ~~it~~ the Department shall  
108 have the power to: (i) initiate and receive complaints as to air pollution; (ii) hold or cause to be held  
109 hearings and enter orders diminishing or abating the causes of air pollution and orders to enforce ~~its~~ the  
110 Board's regulations pursuant to § 10.1-1309; and (iii) institute legal proceedings, including suits for  
111 injunctions for the enforcement of ~~its~~ orders, regulations, and the abatement and control of air pollution  
112 and for the enforcement of penalties.

113 E. The Board in making regulations ~~and~~; the Department in approving variances, control programs,  
114 or permits; ~~and~~ the courts in granting injunctive relief under the provisions of this chapter, shall consider  
115 facts and circumstances relevant to the reasonableness of the activity involved and the regulations  
116 proposed to control it, including:

117 1. The character and degree of injury to, or interference with, safety, health, or the reasonable use  
118 of property which is caused or threatened to be caused;

119 2. The social and economic value of the activity involved;

120 3. The suitability of the activity to the area in which it is located, except that consideration of this  
121 factor shall be satisfied if the local governing body of a locality in which a facility or activity is proposed  
122 has resolved that the location and operation of the proposed facility or activity is suitable to the area in  
123 which it is located; and

124 4. The scientific and economic practicality of reducing or eliminating the discharge resulting from  
125 such activity.

126 F. ~~The Board may designate one of its members, the Director, or a staff assistant to Department~~  
127 shall conduct the hearings provided for in this chapter. ~~A record of the hearing shall be made and furnished~~  
128 ~~to the Board for its use in arriving at its decision.~~

129 G. The Board shall not:

130 1. Adopt any regulation limiting emissions from wood heaters; or

131 2. Enforce against a manufacturer, distributor, or consumer any federal regulation limiting  
132 emissions from wood heaters adopted after May 1, 2014.

133 H. ~~The Board~~ Department shall submit an annual report to the Governor and General Assembly  
134 on or before October 1 of each year on matters relating to the Commonwealth's air pollution control  
135 policies and on the status of the Commonwealth's air quality.

136 I. In granting a permit pursuant to this section, the Department shall provide in writing a clear and  
137 concise statement of the legal basis, scientific rationale, and justification for the decision reached. When  
138 the decision of the Department is to deny a permit, pursuant to this section, the Department shall, in  
139 consultation with legal counsel, provide a clear and concise statement explaining the reason for the denial,  
140 the scientific justification for the same, and how the Department's decision is in compliance with  
141 applicable laws and regulations. Copies of the decision, certified by the Director, shall be mailed by  
142 certified mail to the permittee or applicant.

143 **§ 10.1-1307.01. Further duties of Board and Department; localities particularly affected.**

144 A. ~~Before~~ The Board, before promulgating a regulation under consideration, or the Department,  
145 before granting a variance to an existing regulation, or issuing a permit for the construction of a new major  
146 source or for a major modification to an existing source, ~~if the Board finds~~ it is found that there is a locality  
147 particularly affected by the regulation, variance, or permit, ~~the Board shall,~~ respectively:

148 1. Publish, or require the applicant to publish, a notice in a local paper of general circulation in  
149 each locality affected at least 30 days prior to the close of any public comment period. Such notice shall  
150 contain a statement of the estimated local impact of the proposed action, which at a minimum shall provide  
151 information regarding specific pollutants and the total quantity of each that may be emitted and shall list  
152 the type and quantity of any fuels to be used.

153 2. Mail the notice to the chief elected official and chief administrative officer of and the planning  
154 district commission for such locality.

155 Written comments shall be accepted by the Board for at least 15 days after any hearing on the  
156 regulation, ~~variance, or permit,~~ unless the Board votes to shorten the period. Written comments shall be  
157 accepted by the Department for at least 15 days after any hearing on the variance or permit.

158 B. ~~Before~~ If the Department finds, before granting any variance to an existing regulation or issuing  
159 any permit for (i) a new fossil fuel-fired generating facility with a capacity of 500 megawatts or more, (ii)

160 a major modification to an existing source that is a fossil fuel-fired generating facility with a capacity of  
 161 500 megawatts or more, (iii) a new fossil fuel-fired compressor station facility used to transport natural  
 162 gas, or (iv) a major modification to an existing source that is a fossil fuel-fired compressor station facility  
 163 used to transport natural gas, ~~if the Board finds~~ that there is a locality particularly affected by such variance  
 164 or permit, the ~~Board~~ Department shall:

165 1. Require the applicant to publish a notice in at least one local paper of general circulation in any  
 166 locality particularly affected at least 60 days prior to the close of any public comment period. Such notice  
 167 shall (i) contain a statement of the estimated local impact of the proposed action; (ii) provide information  
 168 regarding specific pollutants and the total quantity of each that may be emitted; (iii) list the type, quantity,  
 169 and source of any fuel to be used; (iv) advise the public ~~how to request Board consideration or~~ as to the  
 170 date and location of a public hearing; and (v) advise the public where to obtain information regarding the  
 171 proposed action. The Department shall post such notice on the Department website and on a Department  
 172 social media account.

173 2. Require the applicant to mail the notice to (i) the chief elected official of, chief administrative  
 174 officer of, and planning district commission for each locality particularly affected; (ii) every public library  
 175 and public school located within five miles of such facility; and (iii) the owner of each parcel of real  
 176 property that is depicted as adjacent to the facility on the current real estate tax assessment maps of the  
 177 locality.

178 Written comments shall be accepted by the ~~Board~~ Department for at least 30 days after any hearing  
 179 on such variance or permit, unless the ~~Board votes~~ Director elects to shorten the period.

180 C. For the purposes of this section, the term "locality particularly affected" means any locality that  
 181 bears any identified disproportionate material air quality impact that would not be experienced by other  
 182 localities.

183 **§ 10.1-1307.02. Permit for generation of electricity during ISO-declared emergency.**

184 A. As used in this section:

185 "Emergency generation source" means a stationary internal combustion engine that operates  
 186 according to the procedures in the ISO's emergency operations manual during an ISO-declared emergency.

187 "ISO-declared emergency" means a condition that exists when the independent system operator,  
188 as defined in § 56-576, notifies electric utilities that an emergency exists or may occur and that complies  
189 with the definition of "emergency" adopted by the Board pursuant to subsection B.

190 "Retail customer" has the same meaning ascribed thereto in § 56-576.

191 B. The Board shall adopt a general permit-~~or permits~~ regulation for the use of back-up generation  
192 to authorize the construction, installation, reconstruction, modification, and operation of emergency  
193 generation sources during ISO-declared emergencies. Such general permit-~~or permits~~ regulation shall  
194 include a definition of "emergency" that is compatible with the ISO's emergency operations manual. After  
195 adoption of such general permit-~~or permits~~ regulation, any amendments to the Board's regulations  
196 necessary to carry out the provisions of this section shall be exempt from Article 2 (§ 2.2-4006 et seq.) of  
197 the Administrative Process Act.

198 **§ 10.1-1307.04. Greenhouse gas emissions inventory.**

199 A. The Department shall conduct a comprehensive statewide baseline and projection inventory of  
200 all greenhouse gas (GHG) emissions and shall update such inventory every four years. The Board may  
201 adopt regulations necessary to collect from all source sectors data needed by the Department to conduct,  
202 update, and maintain such inventory.

203 B. ~~The Board~~ Department shall include the inventory in the report required pursuant to subsection  
204 H of § 10.1-1307, beginning with the report issued prior to October 1, 2022, and every four years  
205 thereafter. The Department shall publish such inventory on its website, showing changes in GHG  
206 emissions relative to an estimated GHG emissions baseline case for calendar year 2010.

207 C. Any information, except emissions data, that is reported to or otherwise obtained by the  
208 Department pursuant to this section and that contains or might reveal proprietary information shall be  
209 confidential and shall be exempt from the mandatory disclosure requirements of the Virginia Freedom of  
210 Information Act (§ 2.2-3700 et seq.). Each owner shall notify the Director or his representative of the  
211 existence of proprietary information if he desires the protection provided pursuant to this subsection.

212 **§ 10.1-1308.1. Streamlined permitting process for qualified energy generators.**

213 A. As used in this section:



214 "Biomass" means organic material that is available on a renewable or recurring basis, including:

215 1. Forest-related materials, including mill residues, logging residues, forest thinnings, slash, brush,  
216 low-commercial value materials or undesirable species, and woody material harvested for the purpose of  
217 forest fire fuel reduction or forest health and watershed improvement;

218 2. Agricultural-related materials, including orchard trees, vineyard, grain or crop residues,  
219 including straws, aquatic plants and agricultural processed co-products and waste products, including fats,  
220 oils, greases, whey, and lactose;

221 3. Animal waste, including manure and slaughterhouse and other processing waste;

222 4. Solid woody waste materials, including landscape trimmings, waste pallets, crates and  
223 manufacturing, construction, and demolition wood wastes, excluding pressure-treated, chemically treated  
224 or painted wood wastes and wood contaminated with plastic;

225 5. Crops and trees planted for the purpose of being used to produce energy;

226 6. Landfill gas, wastewater treatment gas, and biosolids, including organic waste byproducts  
227 generated during the wastewater treatment process; and

228 7. Municipal solid waste, excluding tires and medical and hazardous waste.

229 "Expedited process" means a process that (i) requires the applicant to pay fees to the  
230 Commonwealth in connection with the issuance and processing of the permit application that do not  
231 exceed \$50 and (ii) has a duration, from receipt of a complete permit application until final action by the  
232 ~~Board or~~ Department on the application, not longer than 60 days.

233 "Qualified energy generator" means a commercial facility located in the Commonwealth with the  
234 capacity annually to generate no more than five megawatts of electricity, or produce the equivalent amount  
235 of energy in the form of fuel, steam, or other energy product, that is generated or produced from biomass,  
236 and that is sold to an unrelated person or used in a manufacturing process.

237 B. ~~The Board~~ Department shall develop an expedited process for issuing any permit that ~~the Board~~  
238 it is required to issue for the construction or operation of a qualified energy generator. The development  
239 of the expedited permitting process shall be in accordance with subdivision A 8 of § 2.2-4006; however,

240 if the construction or operation of a qualified energy generator is subject to a major new source review  
241 program required by § 110(a)(2)(C) of the federal Clean Air Act, this section shall not apply.

242 **§ 10.1-1309. Issuance of special orders; civil penalties.**

243 A. The ~~Board~~ Department shall have the power to issue special orders to:

244 (i) owners who are permitting or causing air pollution as defined by § 10.1-1300, to cease and  
245 desist from such pollution;

246 (ii) owners who have failed to construct facilities in accordance with or have failed to comply with  
247 plans for the control of air pollution submitted by them to and approved by the ~~Board~~ Department, to  
248 construct such facilities in accordance with or otherwise comply with, such approved plans;

249 (iii) owners who have violated or failed to comply with the terms and provisions of any ~~Board~~  
250 Department order or directive to comply with such terms and provisions;

251 (iv) owners who have contravened duly adopted and promulgated air quality standards and  
252 policies, to cease such contravention and to comply with air quality standards and policies;

253 (v) require any owner to comply with the provisions of this chapter and any ~~Board~~ Department  
254 decision; and

255 (vi) require any person to pay civil penalties of up to \$32,500 for each violation, not to exceed  
256 \$100,000 per order, if (a) the person has been issued at least two written notices of alleged violation by  
257 the Department for the same or substantially related violations at the same site, (b) such violations have  
258 not been resolved by demonstration that there was no violation, by an order issued by ~~the Board~~ or the  
259 Director, or by other means, (c) at least 130 days have passed since the issuance of the first notice of  
260 alleged violation, and (d) there is a finding that such violations have occurred after a hearing conducted  
261 in accordance with subsection B. The actual amount of any penalty assessed shall be based upon the  
262 severity of the violations, the extent of any potential or actual environmental harm, the compliance history  
263 of the facility or person, any economic benefit realized from the noncompliance, and the ability of the  
264 person to pay the penalty. The ~~Board~~ Department shall provide the person with the calculation for the  
265 proposed penalty prior to any hearing conducted for the issuance of an order that assesses penalties  
266 pursuant to this subsection. Penalties shall be paid to the state treasury and deposited by the State Treasurer

267 into the Virginia Environmental Emergency Response Fund (§ 10.1-2500 et seq.). The issuance of a notice  
268 of alleged violation by the Department shall not be considered a case decision as defined in § 2.2-4001.  
269 Any notice of alleged violation shall include a description of each violation, the specific provision of law  
270 violated, and information on the process for obtaining a final decision or fact finding from the Department  
271 on whether or not a violation has occurred, and nothing in this section shall preclude an owner from  
272 seeking such a determination.

273 B. Such special orders are to be issued only after a hearing before a hearing officer appointed by  
274 the Supreme Court in accordance with § 2.2-4020 with reasonable notice to the affected owners of the  
275 time, place and purpose thereof, and they shall become effective not less than five days after service as  
276 provided in subsection C below. Should the ~~Board~~ Department find that any such owner is unreasonably  
277 affecting the public health, safety or welfare, or the health of animal or plant life, or property, after a  
278 reasonable attempt to give notice, it shall declare a state of emergency and may issue without hearing an  
279 emergency special order directing the owner to cease such pollution immediately, and shall within 10 days  
280 hold a hearing, after reasonable notice as to the time and place thereof to the owner, to affirm, modify,  
281 amend or cancel such emergency special order. If the ~~Board~~ Department finds that an owner who has been  
282 issued a special order or an emergency special order is not complying with the terms thereof, it may  
283 proceed in accordance with § 10.1-1316 or 10.1-1320.

284 C. Any special order issued under the provisions of this section need not be filed with the Secretary  
285 of the Commonwealth, but the owner to whom such special order is directed shall be notified by certified  
286 mail, return receipt requested, sent to the last known address of such owner, or by personal delivery by an  
287 agent of the ~~Board~~ Department, and the time limits specified shall be counted from the date of receipt.

288 D. Nothing in this section or in § 10.1-1307 shall limit the ~~Board's~~ Department's authority to  
289 proceed against such owner directly under § 10.1-1316 or 10.1-1320 without the prior issuance of an order,  
290 special or otherwise.

291 **§ 10.1-1309.1. Special orders; penalties.**

292 The ~~Board~~ Department is authorized to issue special orders in compliance with the Administrative  
293 Process Act (§ 2.2-4000 et seq.) requiring that an owner file with the ~~Board~~ Department a plan to abate,

294 control, prevent, remove, or contain any substantial and imminent threat to public health or the  
295 environment that is reasonably likely to occur if such source ceases operations. Such plan shall also  
296 include a demonstration of financial capability to implement the plan. Financial capability may be  
297 demonstrated by the establishment of an escrow account, the creation of a trust fund to be maintained  
298 within the Department, submission of a bond, corporate guarantee based on audited financial statements,  
299 or such other instruments as the ~~Board~~ Department may deem appropriate. The ~~Board~~ Department may  
300 require that such plan and instruments be updated as appropriate. The ~~Board~~ Department shall give due  
301 consideration to any plan submitted by the owner in accordance with §§ 10.1-1410, 10.1-1428, and 62.1-  
302 44.15:1.1, in determining the necessity for and suitability of any plan submitted under this section.

303 For the purposes of this section, "ceases operation" means to cease conducting the normal  
304 operation of a source which is regulated under this chapter under circumstances where it would be  
305 reasonable to expect that such operation will not be resumed by the owner at the source. The term shall  
306 not include the sale or transfer of a source in the ordinary course of business or a permit transfer in  
307 accordance with Board regulations.

308 Any person who ceases operations and who knowingly and willfully fails to implement a closure  
309 plan or to provide adequate funds for implementation of such plan shall, if such failure results in a  
310 significant harm or an imminent and substantial threat of significant harm to human health or the  
311 environment, be liable to the Commonwealth and any political subdivision thereof for the costs incurred  
312 in abating, controlling, preventing, removing, or containing such harm or threat.

313 Any person who ceases operations and who knowingly and willfully fails to implement a closure  
314 plan or to provide adequate funds for implementation of such plan shall, if such failure results in a  
315 significant harm or an imminent and substantial threat of significant harm to human health or the  
316 environment, be guilty of a Class 4 felony.

317 **§ 10.1-1310. Decision of Department pursuant to hearing.**

318 Any decision by the ~~Board~~ Department rendered pursuant to hearings under § 10.1-1309 shall be  
319 reduced to writing and shall contain the explicit findings of fact and conclusions of law upon which the  
320 ~~Board's~~ Department's decision is based. Certified copies of the written decision shall be delivered or

321 mailed by certified mail to the parties affected by it. Failure to comply with the provisions of this section  
322 shall render such decision invalid.

323 **§ 10.1-1310.1. Notification of local government.**

324 Upon determining that there has been a violation of this chapter or any regulation promulgated  
325 under this chapter or order of the ~~Board~~ Department, and such violation poses an imminent threat to the  
326 health, safety or welfare of the public, the Director shall immediately notify the chief administrative officer  
327 of any potentially affected local government. Neither the Director, the Commonwealth, nor any employee  
328 of the Commonwealth shall be liable for a failure to provide, or a delay in providing, the notification  
329 required by this section.

330 **§ 10.1-1311. Penalties for noncompliance; judicial review.**

331 A. The Board is authorized to promulgate regulations providing for the determination of a formula  
332 for the basis of the amount of any noncompliance penalty to be assessed by a court pursuant to subsection  
333 B hereof, in conformance with the requirements of Section 120 of the federal Clean Air Act, as amended,  
334 and any regulations promulgated thereunder. Any regulations promulgated pursuant to this section shall  
335 be in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

336 B. Upon a determination of the amount by the ~~Board~~ Department, the ~~Board~~ Department shall  
337 petition the circuit court of the county or city wherein the owner subject to such noncompliance assessment  
338 resides, regularly or systematically conducts affairs or business activities, or where such owner's property  
339 affected by the administrative action is located for an order requiring payment of a noncompliance penalty  
340 in a sum the court deems appropriate.

341 C. Any order issued by a court pursuant to this section may be enforced as a judgment of the court.  
342 All sums collected, less the assessment and collection costs, shall be paid into the state treasury and  
343 deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to  
344 Chapter 25 (§ 10.1-2500 et seq.) of this title.

345 D. Any penalty assessed under this section shall be in addition to permits, fees, orders, payments,  
346 sanctions, or other requirements under this chapter, and shall in no way affect any civil or criminal  
347 enforcement proceedings brought under other provisions of this chapter.

348           **§ 10.1-1312. Air pollution control districts.**

349           A. The ~~Board~~ Department may create, within any area of the Commonwealth, local air pollution  
350 control districts comprising a city or county or a part or parts of each, or two or more cities or counties, or  
351 any combination or parts thereof. Such local districts may be established by the ~~Board~~ Department on its  
352 own motion or upon request of the governing body or bodies of the area involved.

353           B. In each district there shall be a local air pollution control committee, the members of which  
354 shall be appointed by the ~~Board~~ Department from lists of recommended nominees submitted by the  
355 respective governing bodies of each locality, all or a portion of which are included in the district. The  
356 number of members on each committee shall be in the discretion of the ~~Board~~ Department. When a district  
357 includes two or more localities or portions thereof, the ~~Board~~ Department shall apportion the membership  
358 of the committee among the localities, provided that each locality shall have at least one representative on  
359 the committee. The members shall not be compensated out of state funds, but may be reimbursed for  
360 expenses out of state funds. Localities may provide for the payment of compensation and reimbursement  
361 of expenses to the members and may appropriate funds therefore. The portion of such payment to be borne  
362 by each locality shall be prescribed by agreement.

363           C. The local committee is empowered to observe compliance with the regulations of the Board  
364 and report instances of noncompliance to the ~~Board~~ Department, to conduct educational programs relating  
365 to air pollution and its effects, to assist the Department in its air monitoring programs, to initiate and make  
366 studies relating to air pollution and its effects, and to make recommendations to the ~~Board~~ Department.

367           D. The governing body of any locality, wholly or partially included within any such district, may  
368 appropriate funds for use by the local committee in air pollution control and studies.

369           **§ 10.1-1313. State Advisory Board on Air Pollution.**

370           The ~~Board~~ Department is authorized to name qualified persons to a State Advisory Board on Air  
371 Pollution.

372           **§ 10.1-1314. Owners to furnish plans, specifications and information.**

373           Every owner which the ~~Board~~ Department has reason to believe is causing, or may be about to  
374 cause, an air pollution problem shall on request of the ~~Board~~ Department furnish such plans, specifications

375 and information as may be required by the ~~Board~~ Department in the discharge of its duties under this  
376 chapter. Any information, except emission data, as to secret processes, formulae or methods of  
377 manufacture or production shall not be disclosed in public hearing and shall be kept confidential. If  
378 samples are taken for analysis, a duplicate of the analytical report shall be furnished promptly to the person  
379 from whom such sample is requested.

380 **§ 10.1-1315. Right of entry.**

381 Whenever it is necessary for the purposes of this chapter, the ~~Board~~ Department or any ~~member,~~  
382 agent or employee thereof, when duly authorized by the ~~Board~~ Director, may at reasonable times enter  
383 any establishment or upon any property, public or private, to obtain information or conduct surveys or  
384 investigations.

385 **§ 10.1-1316. Enforcement and civil penalties.**

386 A. Any owner violating or failing, neglecting or refusing to obey any provision of this chapter, any  
387 Board regulation or Department order, or any permit condition may be compelled to comply by injunction,  
388 mandamus or other appropriate remedy.

389 B. Without limiting the remedies which may be obtained under subsection A, any owner violating  
390 or failing, neglecting or refusing to obey any Board regulation or Department order, any provision of this  
391 chapter, or any permit condition shall be subject, in the discretion of the court, to a civil penalty not to  
392 exceed \$32,500 for each violation. Each day of violation shall constitute a separate offense. In determining  
393 the amount of any civil penalty to be assessed pursuant to this subsection, the court shall consider, in  
394 addition to such other factors as it may deem appropriate, the size of the owner's business, the severity of  
395 the economic impact of the penalty on the business, and the seriousness of the violation. Such civil  
396 penalties shall be paid into the state treasury and deposited by the State Treasurer into the Virginia  
397 Environmental Emergency Response Fund pursuant to Chapter 25 (§ 10.1-2500 et seq.) of this title. Such  
398 civil penalties may, in the discretion of the court assessing them, be directed to be paid into the treasury  
399 of the county, city or town in which the violation occurred, to be used to abate environmental pollution in  
400 such manner as the court may, by order, direct, except that where the owner in violation is the county, city  
401 or town itself, or its agent, the court shall direct the penalty to be paid into the state treasury and deposited

402 by the State Treasurer into the Virginia Environmental Emergency Response Fund pursuant to Chapter 25  
403 of this title.

404 C. With the consent of an owner who has violated or failed, neglected or refused to obey any Board  
405 regulation or Department order, or any provision of this chapter, or any permit condition, the ~~Board~~  
406 Department may provide, in any order issued by the ~~Board~~ Department against the owner, for the payment  
407 of civil charges in specific sums, not to exceed the limit of subsection B. Such civil charges shall be in  
408 lieu of any civil penalty which could be imposed under subsection B. Such civil charges shall be paid into  
409 the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency  
410 Response Fund pursuant to Chapter 25 of this title.

411 D. The ~~Board~~ Department shall develop and provide an opportunity for public comment on  
412 guidelines and procedures that contain specific criteria for calculating the appropriate penalty for each  
413 violation based upon the severity of the violations, the extent of any potential or actual environmental  
414 harm, the compliance history of the facility or person, any economic benefit realized from the  
415 noncompliance, and the ability of the person to pay the penalty.

416 **§ 10.1-1318. Appeal from decision of Department.**

417 A. Any owner aggrieved by a final decision of the ~~Board~~ Department under § 10.1-1309, § 10.1-  
418 1322 or subsection D of § 10.1-1307 is entitled to judicial review thereof in accordance with the provisions  
419 of the Administrative Process Act (§ 2.2-4000 et seq.).

420 B. Any person who has participated, in person or by submittal of written comments, in the public  
421 comment process related to a final decision of the ~~Board~~ Department under § 10.1-1322 and who has  
422 exhausted all available administrative remedies for review of the ~~Board's~~ Department's decision, shall be  
423 entitled to judicial review of the ~~Board's~~ Department's decision in accordance with the provisions of the  
424 Administrative Process Act (§ 2.2-4000 et seq.) if such person meets the standard for obtaining judicial  
425 review of a case or controversy pursuant to Article III of the United States Constitution. A person shall be  
426 deemed to meet such standard if (i) such person has suffered an actual or imminent injury which is an  
427 invasion of a legally protected interest and which is concrete and particularized; (ii) such injury is fairly



428 traceable to the decision of the Board and not the result of the independent action of some third party not  
429 before the court; and (iii) such injury will likely be redressed by a favorable decision by the court.

430 **§ 10.1-1320. Penalties; chapter not to affect right to relief or to maintain action.**

431 Any owner knowingly violating any provision of this chapter, Board regulation, or Department  
432 order, or any permit condition shall upon conviction be guilty of a misdemeanor and shall be subject to a  
433 fine of not more than \$10,000 for each violation within the discretion of the court. Each day of violation  
434 shall constitute a separate offense.

435 Nothing in this chapter shall be construed to abridge, limit, impair, create, enlarge or otherwise  
436 affect substantively or procedurally the right of any person to damages or other relief on account of injury  
437 to persons or property.

438 **§ 10.1-1320.1. Duty of attorney for the Commonwealth.**

439 It shall be the duty of every attorney for the Commonwealth to whom the Director or his authorized  
440 representative has reported any violation of (i) this chapter ~~or~~, (ii) any regulation of the Board, or (iii)  
441 order of the ~~Board~~ Department, to cause proceedings to be prosecuted without delay for the fines and  
442 penalties in such cases.

443 **§ 10.1-1322. Permits.**

444 A. Pursuant to regulations adopted by the Board ~~and subject to § 10.1-1322.01~~, permits may be  
445 issued, amended, revoked or terminated and reissued by the Department and may be enforced under the  
446 provisions of this chapter in the same manner as regulations and orders. Failure to comply with any  
447 condition of a permit shall be considered a violation of this chapter and investigations and enforcement  
448 actions may be pursued in the same manner as is done with regulations of the Board and orders of the  
449 ~~Board~~ Department under the provisions of this chapter. To the extent allowed by federal law, any person  
450 holding a permit who is intending to upgrade the permitted facility by installing technology, control  
451 equipment, or other apparatus that the permittee demonstrates to the satisfaction of the Director will result  
452 in improved energy efficiency, will reduce the emissions of regulated air pollutants, and meets the  
453 requirements of Best Available Control Technology shall not be required to obtain a new, modified, or

454 amended permit. The permit holder shall provide the demonstration anticipated by this subsection to the  
455 Department no later than 30 days prior to commencing construction.

456 B. The Board by regulation may prescribe and provide for the payment and collection of annual  
457 permit program fees for air pollution sources. Annual permit program fees shall not be collected until (i)  
458 the federal Environmental Protection Agency approves the Board's operating permit program established  
459 pursuant to Title V of the federal Clean Air Act or (ii) the Governor determines that such fees are needed  
460 earlier to maintain primacy over the program. The annual fees shall be based on the actual emissions (as  
461 calculated or estimated) of each regulated pollutant, as defined in § 502 of the federal Clean Air Act, in  
462 tons per year, not to exceed 4,000 tons per year of each pollutant for each source. The annual permit  
463 program fees shall not exceed a base year amount of \$25 per ton using 1990 as the base year, and shall be  
464 adjusted annually by the Consumer Price Index as described in § 502 of the federal Clean Air Act. Permit  
465 program fees for air pollution sources who receive state operating permits in lieu of Title V operating  
466 permits shall be paid in the first year and thereafter shall be paid biennially. The fees shall approximate  
467 the direct and indirect costs of administering and enforcing the permit program, and of administering the  
468 small business stationary source technical and environmental compliance assistance program as required  
469 by the federal Clean Air Act. The Board shall ~~also collect~~ promulgate regulations establishing permit  
470 application fee amounts not to exceed \$30,000 from applicants for a permit for a new major stationary  
471 source. The permit application fee amount paid shall be credited towards the amount of annual fees owed  
472 pursuant to this section during the first two years of the source's operation. The fees shall be exempt from  
473 statewide indirect costs charged and collected by the Department of Accounts.

474 C. When adopting regulations for permit program fees for air pollution sources, the Board shall  
475 take into account the permit fees charged in neighboring states and the importance of not placing existing  
476 or prospective industry in the Commonwealth at a competitive disadvantage.

477 D. On or before January 1 of every even-numbered year, the Department shall make an evaluation  
478 of the implementation of the permit fee program and provide this evaluation in writing to the Senate  
479 Committee on Agriculture, Conservation and Natural Resources, the Senate Committee on Finance and  
480 Appropriations, the House Committee on Appropriations, the House Committee on Agriculture,

481 Chesapeake and Natural Resources, and the House Committee on Finance. This evaluation shall include  
482 a report on the total fees collected, the amount of general funds allocated to the Department, the  
483 Department's use of the fees and the general funds, the number of permit applications received, the number  
484 of permits issued, the progress in eliminating permit backlogs, and the timeliness of permit processing.

485 E. To the extent allowed by federal law and regulations, priority for utilization of permit fees shall  
486 be given to cover the costs of processing permit applications in order to more efficiently issue permits.

487 F. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund  
488 appropriation to the Department.

489 G. The permit fees shall apply to permit programs in existence on July 1, 1992, any additional  
490 permit programs that may be required by the federal government and administered by the ~~Board~~  
491 Department, or any new permit program required by the Code of Virginia.

492 H. The permit program fee regulations promulgated pursuant to this section shall not become  
493 effective until July 1, 1993.

494 I. [Expired.]

495 **§ 10.1-1322.4. Permit modifications for alternative fuels or raw materials.**

496 Unless required by federal law or regulation, no additional permit or permit modifications shall be  
497 required ~~by the Board~~ for the use, by any source, of an alternative fuel or raw material, if the owner  
498 demonstrates ~~to the Board~~ that as a result of trial burns at his facility or other facilities or other sufficient  
499 data that the emissions resulting from the use of the alternative fuel or raw material supply are decreased.

500 To the extent allowed by federal law or regulation, no demonstration shall be required for the use of  
501 processed animal fat, processed fish oil, processed vegetable oil, distillate oil, or any mixture thereof in  
502 place of the same quantity of residual oil to fire industrial boilers.

503 **§ 10.1-1333. Permitting process for clean coal projects.**

504 To the extent authorized by federal law, the ~~Board~~ Department of Environmental Quality shall  
505 implement permit processes that facilitate the construction of clean coal projects in the Commonwealth  
506 by, among such other actions as it deems appropriate, giving priority to processing permit applications for  
507 clean coal projects.

508 § 15.2-2403.3. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by  
509 Acts 2017, c. 345) Stormwater service districts; allocation of revenues.

510 Any town located within a stormwater service district created pursuant to this chapter shall be  
511 entitled to any revenues collected within the town pursuant to subdivision 6 of § 15.2-2403, subject to the  
512 limitations set forth therein, so long as the town maintains its own municipal separate storm sewer system  
513 (MS4) permit issued by the ~~State Water Control Board~~ Department of Environmental Quality or maintains  
514 its own stormwater service district.

515 § 15.2-5101. Definitions.

516 As used in this chapter, unless the context requires a different meaning:

517 "Authority" means an authority created under the provisions of § 15.2-5102 or Article 6 (§ 15.2-  
518 5152 et seq.) of this chapter or, if any such authority has been abolished, the entity succeeding to the  
519 principal functions thereof.

520 "Bonds" and "revenue bonds" include notes, bonds, bond anticipation notes, and other obligations  
521 of an authority for the payment of money.

522 "Cost," as applied to a system, includes the purchase price of the system or the cost of acquiring  
523 all of the capital stock of the corporation owning such system and the amount to be paid to discharge all  
524 of its obligations in order to vest title to the system or any part thereof in the authority; the cost of  
525 improvements; the cost of all land, properties, rights, easements, franchises and permits acquired; the cost  
526 of all labor, machinery and equipment; financing and credit enhancement charges; interest prior to and  
527 during construction and for one year after completion of construction; any deposit to any bond interest  
528 and principal reserve account, start-up costs and reserves and expenditures for operating capital; cost of  
529 engineering and legal services, plans, specifications, surveys, estimates of costs and revenues; other  
530 expenses necessary or incident to the determining of the feasibility or practicability of any such  
531 acquisition, improvement, or construction; administrative expenses and such other expenses as may be  
532 necessary or incident to the financing authorized in this chapter and to the acquisition, improvement, or  
533 construction of any such system and the placing of the system in operation by the authority. Any obligation  
534 or expense incurred by an authority in connection with any of the foregoing items of cost and any

535 obligation or expense incurred by the authority prior to the issuance of revenue bonds under the provisions  
536 of this chapter for engineering studies, for estimates of cost and revenues, and for other technical or  
537 professional services which may be utilized in the acquisition, improvement or construction of such  
538 system is a part of the cost of such system.

539 "Cost of improvements" means the cost of constructing improvements and includes the cost of all  
540 labor and material; the cost of all land, property, rights, easements, franchises, and permits acquired which  
541 are deemed necessary for such construction; interest during any period of disuse during such construction;  
542 the cost of all machinery and equipment; financing charges; cost of engineering and legal expenses, plans,  
543 specifications; and such other expenses as may be necessary or incident to such construction.

544 "Federal agency" means the United States of America or any department, agency, instrumentality,  
545 or bureau thereof.

546 "Green roof" means a roof or partially covered roof consisting of plants, soil, or another  
547 lightweight growing medium that is installed on top of a waterproof membrane and designed in accordance  
548 with the Virginia Stormwater Management Program's standards and specifications for green roofs, as set  
549 forth in the Virginia BMP Clearinghouse.

550 "Improvements" means such repairs, replacements, additions, extensions and betterments of and  
551 to a system as an authority deems necessary to place or maintain the system in proper condition for the  
552 safe, efficient and economical operation thereof or to provide service in areas not currently receiving such  
553 service.

554 "Owner" includes persons, federal agencies, and units of the Commonwealth having any title or  
555 interest in any system, or the services or facilities to be rendered thereby.

556 "Political subdivision" means a locality or any institution or commission of the Commonwealth of  
557 Virginia.

558 "Refuse" means solid waste, including sludge and other discarded material, such as solid, liquid,  
559 semi-solid or contained gaseous material resulting from industrial, commercial, mining, and agricultural  
560 operations or from community activities or residences. "Refuse" does not include (i) solid and dissolved  
561 materials in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial

562 discharges which are sources subject to a permit from the ~~State Water Control Board~~ Department of  
563 Environmental Quality, or (iii) source, special nuclear, or by-product material as defined by the Federal  
564 Atomic Energy Act of 1954 (42 U.S.C. § 2011, et seq.), as amended.

565 "Refuse collection and disposal system" means a system, plant or facility designed to collect,  
566 manage, dispose of, or recover and use energy from refuse and the land, structures, vehicles and equipment  
567 for use in connection therewith.

568 "Sewage" means the water-carried wastes created in and carried, or to be carried, away from  
569 residences, hotels, schools, hospitals, industrial establishments, commercial establishments or any other  
570 private or public buildings, together with such surface or ground water and household and industrial wastes  
571 as may be present.

572 "Sewage disposal system" means any system, plant, disposal field, lagoon, pumping station,  
573 constructed drainage ditch or surface water intercepting ditch, incinerator, area devoted to sanitary  
574 landfills, or other works, installed for the purpose of treating, neutralizing, stabilizing or disposing of  
575 sewage, industrial waste or other wastes.

576 "Sewer system" or "sewage system" means pipelines or conduits, pumping stations, and force  
577 mains, and all other constructions, devices, and appliances appurtenant thereto, used for conducting  
578 sewage, industrial wastes or other wastes to a plant of ultimate disposal.

579 "Stormwater control system" means a structural system of any type that is designed to manage the  
580 runoff from land development projects or natural systems designated for such purposes, including, without  
581 limitation, retention basins, ponds, wetlands, sewers, conduits, pipelines, pumping and ventilating  
582 stations, and other plants, structures, and real and personal property used for support of the system.

583 "System" means any sewage disposal system, sewer system, stormwater control system, water or  
584 waste system, and for authorities created under Article 6 (§ 15.2-5152 et seq.) of this chapter, such  
585 facilities as may be provided by the authority under § 15.2-5158.

586 "Unit" means any department, institution or commission of the Commonwealth; any public  
587 corporate instrumentality thereof; any district; or any locality.

588 "Water or waste system" means any water system, sewer system, sewage disposal system, or refuse  
589 collection and disposal system, or any combination of such systems. "Water system" means all plants,  
590 systems, facilities or properties used or useful or having the present capacity for future use in connection  
591 with the supply or distribution of water, or facilities incident thereto, and any integral part thereof,  
592 including water supply systems, water distribution systems, dams and facilities for the generation or  
593 transmission of hydroelectric power, reservoirs, wells, intakes, mains, laterals, pumping stations,  
594 standpipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances,  
595 and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient  
596 by the authority for the operation thereof but not including dams or facilities for the generation or  
597 transmission of hydroelectric power that are not incident to plants, systems, facilities or properties used  
598 or useful or having the present capacity for future use in connection with the supply or distribution of  
599 water.

600 **§ 28.2-1205.1. Coordinated review of water resources projects.**

601 A. Applications for water resources projects that require a Virginia Marine Resources permit and  
602 an individual Virginia Water Protection Permit under § 62.1-44.15:20 shall be submitted and processed  
603 through a joint application and review process.

604 B. The Commissioner and the Director of the Department of Environmental Quality, in  
605 consultation with the Virginia Institute of Marine Science, the Department of Wildlife Resources, the  
606 Department of Historic Resources, the Department of Health, the Department of Conservation and  
607 Recreation, the Virginia Department of Agriculture and Consumer Services, and any other appropriate or  
608 interested state agency, shall coordinate the joint review process to ensure the orderly evaluation of  
609 projects requiring both permits.

610 C. The joint review process shall include, but not be limited to, provisions to ensure that: (i) the  
611 initial application for the project shall be advertised simultaneously by the Commission and the  
612 Department of Environmental Quality; (ii) project reviews shall be completed by all state agencies that  
613 have been asked to review and provide comments, within 45 days of project notification by the  
614 Commission and the Department of Environmental Quality; (iii) the Commission and the ~~State Water~~

615 ~~Control Board~~ Department of Environmental Quality shall coordinate permit issuance and, to the extent  
616 practicable, shall take action on the permit application no later than one year after the agencies have  
617 received complete applications; (iv) to the extent practicable, the Commission and the ~~State Water Control~~  
618 ~~Board~~ Department of Environmental Quality shall take action concurrently, but no more than six months  
619 apart; and (v) upon taking its final action on each permit, the Commission and the ~~State Water Control~~  
620 ~~Board~~ Department of Environmental Quality shall provide each other with notification of its action and  
621 any and all supporting information, including any background materials or exhibits used in the application.

622 **§ 46.2-1601. Licensing of dealers of salvage vehicles; fees.**

623 A. It shall be unlawful for any person to engage in business in the Commonwealth as an auto  
624 recycler, salvage pool, or vehicle removal operator without first acquiring a license issued by the  
625 Commissioner for each such business at each location. The fee for the first such license issued or renewed  
626 under this chapter shall be \$100 per license year or part thereof. The fee for each additional license issued  
627 or renewed under this chapter for the same location shall be \$25 per license year or part thereof. However,  
628 no fee shall be charged for supplemental locations of a business located within 500 yards of the licensed  
629 location.

630 B. No license shall be issued or renewed for any person unless (i) the licensed business contains  
631 at least 600 square feet of enclosed space, (ii) the licensed business is shown to be in compliance with all  
632 applicable zoning ordinances, and (iii) the applicant may (a) certify to the Commissioner that the licensed  
633 business is permitted under a Virginia Pollutant Discharge Elimination System individual or general  
634 permit issued by the ~~State Water Control Board~~ Department of Environmental Quality for discharges of  
635 storm water associated with industrial activity and provides the permit number(s) from such permit(s) or  
636 (b) certify to the Commissioner that the licensed business is otherwise exempt from such permitting  
637 requirements. Nothing in this section shall authorize any person to act as a motor vehicle dealer or  
638 salesperson without being licensed under Chapter 15 (§ 46.2-1500 et seq.) and meeting all requirements  
639 imposed by such chapter.

640 C. Licenses issued under this section shall be deemed not to have expired if the renewal application  
641 and required fees as set forth in subsection A are received by the Commissioner or postmarked not more



642 than 30 days after the expiration date of such license. Whenever the renewal application is received by the  
643 Commissioner or postmarked not more than 30 days after the expiration date of such license, the license  
644 fees shall be 150 percent of the fees provided for in subsection A.

645 D. The Commissioner may offer an optional multiyear license for any license set forth in this  
646 section. When such option is offered and chosen by the licensee, all fees due at the time of licensing shall  
647 be multiplied by the number of years for which the license will be issued.

648 § 62.1-44.3. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c.  
649 345) Definitions.

650 Unless a different meaning is required by the context, the following terms as used in this chapter  
651 shall have the meanings hereinafter respectively ascribed to them:

652 "Beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are  
653 not limited to, the protection of fish and wildlife resources and habitat, maintenance of waste assimilation,  
654 recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes  
655 of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and  
656 wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of  
657 Virginia's waters. Offstream beneficial uses include, but are not limited to, domestic (including public  
658 water supply), agricultural uses, electric power generation, commercial, and industrial uses.

659 "Board" means the State Water Control Board. However, when used outside the context of the  
660 promulgation of regulations, including regulations to establish general permits, pursuant to this chapter,

661 "Board" means the Department of Environmental Quality.

662 "Certificate" means any certificate issued by the ~~Board~~ Department.

663 "Department" means the Department of Environmental Quality.

664 "Director" means the Director of the Department of Environmental Quality.

665 "Establishment" means any industrial establishment, mill, factory, tannery, paper or pulp mill,  
666 mine, coal mine, colliery, breaker or coal-processing operations, quarry, oil refinery, boat, vessel, and  
667 every other industry or plant or works the operation of which produces industrial wastes or other wastes  
668 or which may otherwise alter the physical, chemical or biological properties of any state waters.

669 "Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil or  
670 rock.

671 "Industrial wastes" means liquid or other wastes resulting from any process of industry,  
672 manufacture, trade, or business or from the development of any natural resources.

673 "The law" or "this law" means the law contained in this chapter as now existing or hereafter  
674 amended.

675 "Member" means a member of the Board.

676 "Normal agricultural activities" means those activities defined as an agricultural operation in § 3.2-  
677 300 and any activity that is conducted as part of or in furtherance of such agricultural operation but shall  
678 not include any activity for which a permit would have been required as of January 1, 1997, under 33  
679 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

680 "Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 and  
681 any activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include  
682 any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C. § 1344  
683 or any regulations promulgated pursuant thereto.

684 "Other wastes" means decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal,  
685 tar, oil, chemicals, and all other substances except industrial wastes and sewage which may cause pollution  
686 in any state waters.

687 "Owner" means the Commonwealth or any of its political subdivisions, including but not limited  
688 to sanitation district commissions and authorities and any public or private institution, corporation,  
689 association, firm, or company organized or existing under the laws of this or any other state or country, or  
690 any officer or agency of the United States, or any person or group of persons acting individually or as a  
691 group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any  
692 actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility  
693 or operation that has the capability to alter the physical, chemical, or biological properties of state waters  
694 in contravention of § 62.1-44.5.

695 "Person" means an individual, corporation, partnership, association, governmental body,  
696 municipal corporation, or any other legal entity.

697 "Policies" means policies established under subdivisions (3a) and (3b) of § 62.1-44.15.

698 "Pollution" means such alteration of the physical, chemical, or biological properties of any state  
699 waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious  
700 to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with  
701 reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable  
702 for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an  
703 alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of  
704 sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to  
705 cause pollution but which, in combination with such alteration of or discharge or deposit to state waters  
706 by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into  
707 state waters; and (iii) contributing to the contravention of standards of water quality duly established by  
708 the Board, are "pollution" for the terms and purposes of this chapter.

709 "Pretreatment requirements" means any requirements arising under the Board's pretreatment  
710 regulations including the duty to allow or carry out inspections, entry, or monitoring activities; any rules,  
711 regulations, or orders issued by the owner of a publicly owned treatment works; or any reporting  
712 requirements imposed by the owner of a publicly owned treatment works or by the regulations of the  
713 Board.

714 "Pretreatment standards" means any standards of performance or other requirements imposed by  
715 regulation of the Board upon an industrial user of a publicly owned treatment works.

716 "Reclaimed water" means water resulting from the treatment of domestic, municipal, or industrial  
717 wastewater that is suitable for a direct beneficial or controlled use that would not otherwise occur.  
718 Specifically excluded from this definition is "gray water."

719 "Reclamation" means the treatment of domestic, municipal, or industrial wastewater or sewage to  
720 produce reclaimed water for a direct beneficial or controlled use that would not otherwise occur.

721 "Regulation" means a regulation issued under § 62.1-44.15 (10).

722 "Reuse" means the use of reclaimed water for a direct beneficial use or a controlled use that is in  
723 accordance with the requirements of the Board.

724 "Rule" means a rule adopted by the Board to regulate the procedure of the Board pursuant to §  
725 62.1-44.15 (7).

726 "Ruling" means a ruling issued under § 62.1-44.15 (9).

727 "Sewage" means the water-carried human wastes from residences, buildings, industrial  
728 establishments or other places together with such industrial wastes and underground, surface, storm, or  
729 other water as may be present.

730 "Sewage treatment works" or "treatment works" means any device or system used in the storage,  
731 treatment, disposal, or reclamation of sewage or combinations of sewage and industrial wastes, including  
732 but not limited to pumping, power, and other equipment, and appurtenances, and any works, including  
733 land, that are or will be (i) an integral part of the treatment process or (ii) used for the ultimate disposal of  
734 residues or effluent resulting from such treatment. These terms shall not include onsite sewage systems or  
735 alternative discharging sewage systems.

736 "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other  
737 construction, devices, and appliances appurtenant thereto, used for conducting sewage or industrial wastes  
738 or other wastes to a point of ultimate disposal.

739 "Special order" means a special order issued under subdivisions (8a), (8b), and (8c) of § 62.1-  
740 44.15.

741 "Standards" means standards established under subdivisions (3a) and (3b) of § 62.1-44.15.

742 "State waters" means all water, on the surface and under the ground, wholly or partially within or  
743 bordering the Commonwealth or within its jurisdiction, including wetlands.

744 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a  
745 frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence  
746 of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps,  
747 marshes, bogs and similar areas.

748 § 62.1-44.3. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c.  
749 345) Definitions.

750 Unless a different meaning is required by the context, the following terms as used in this chapter  
751 shall have the meanings hereinafter respectively ascribed to them:

752 "Beneficial use" means both instream and offstream uses. Instream beneficial uses include, but are  
753 not limited to, the protection of fish and wildlife resources and habitat, maintenance of waste assimilation,  
754 recreation, navigation, and cultural and aesthetic values. The preservation of instream flows for purposes  
755 of the protection of navigation, maintenance of waste assimilation capacity, the protection of fish and  
756 wildlife resources and habitat, recreation, cultural and aesthetic values is an instream beneficial use of  
757 Virginia's waters. Offstream beneficial uses include, but are not limited to, domestic (including public  
758 water supply), agricultural uses, electric power generation, commercial, and industrial uses.

759 "Board" means the State Water Control Board. However, when used outside the context of the  
760 promulgation of regulations, including regulations to establish general permits, pursuant to this chapter,

761 "Board" means the Department of Environmental Quality.

762 "Certificate" means any certificate or permit issued by the ~~Board~~ Department.

763 "Department" means the Department of Environmental Quality.

764 "Director" means the Director of the Department of Environmental Quality.

765 "Establishment" means any industrial establishment, mill, factory, tannery, paper or pulp mill,  
766 mine, coal mine, colliery, breaker or coal-processing operations, quarry, oil refinery, boat, vessel, and  
767 every other industry or plant or works the operation of which produces industrial wastes or other wastes  
768 or which may otherwise alter the physical, chemical or biological properties of any state waters.

769 "Excavate" or "excavation" means ditching, dredging, or mechanized removal of earth, soil or  
770 rock.

771 "Industrial wastes" means liquid or other wastes resulting from any process of industry,  
772 manufacture, trade, or business or from the development of any natural resources.

773 "Land-disturbance approval" means an approval allowing a land-disturbing activity to commence  
774 issued by (i) a Virginia Erosion and Stormwater Management Program authority after the requirements of

775 § 62.1-44.15:34 have been met or (ii) a Virginia Erosion and Sediment Control Program authority after  
776 the requirements of § 62.1-44.15:55 have been met.

777 "The law" or "this law" means the law contained in this chapter as now existing or hereafter  
778 amended.

779 "Member" means a member of the Board.

780 "Municipal separate storm sewer" means a conveyance or system of conveyances otherwise known  
781 as a municipal separate storm sewer system or "MS4," including roads with drainage systems, municipal  
782 streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, that is:

- 783 1. Owned or operated by a federal entity, state, city, town, county, district, association, or other  
784 public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial  
785 wastes, stormwater, or other wastes, including a special district under state law such as a sewer district,  
786 flood control district, drainage district or similar entity, or a designated and approved management agency  
787 under § 208 of the federal Clean Water Act (33 U.S.C. § 1251 et seq.) that discharges to surface waters;
- 788 2. Designed or used for collecting or conveying stormwater;
- 789 3. Not a combined sewer; and
- 790 4. Not part of a publicly owned treatment works.

791 "Normal agricultural activities" means those activities defined as an agricultural operation in § 3.2-  
792 300 and any activity that is conducted as part of or in furtherance of such agricultural operation but shall  
793 not include any activity for which a permit would have been required as of January 1, 1997, under 33  
794 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

795 "Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 and  
796 any activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include  
797 any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C. § 1344  
798 or any regulations promulgated pursuant thereto.

799 "Other wastes" means decayed wood, sawdust, shavings, bark, lime, garbage, refuse, ashes, offal,  
800 tar, oil, chemicals, and all other substances except industrial wastes and sewage which may cause pollution  
801 in any state waters.

802 "Owner" means the Commonwealth or any of its political subdivisions, including but not limited  
803 to sanitation district commissions and authorities and any public or private institution, corporation,  
804 association, firm, or company organized or existing under the laws of this or any other state or country, or  
805 any officer or agency of the United States, or any person or group of persons acting individually or as a  
806 group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any  
807 actual or potential discharge of sewage, industrial wastes, or other wastes to state waters, or any facility  
808 or operation that has the capability to alter the physical, chemical, or biological properties of state waters  
809 in contravention of § 62.1-44.5.

810 "Person" means an individual, corporation, partnership, association, governmental body,  
811 municipal corporation, or any other legal entity.

812 "Policies" means policies established under subdivisions (3a) and (3b) of § 62.1-44.15.

813 "Pollution" means such alteration of the physical, chemical, or biological properties of any state  
814 waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious  
815 to the public health, safety, or welfare or to the health of animals, fish, or aquatic life; (b) unsuitable with  
816 reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable  
817 for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an  
818 alteration of the physical, chemical, or biological property of state waters or a discharge or deposit of  
819 sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to  
820 cause pollution but which, in combination with such alteration of or discharge or deposit to state waters  
821 by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into  
822 state waters; and (iii) contributing to the contravention of standards of water quality duly established by  
823 the Board, are "pollution" for the terms and purposes of this chapter.

824 "Pretreatment requirements" means any requirements arising under the Board's pretreatment  
825 regulations including the duty to allow or carry out inspections, entry, or monitoring activities; any rules,  
826 regulations, or orders issued by the owner of a publicly owned treatment works; or any reporting  
827 requirements imposed by the owner of a publicly owned treatment works or by the regulations of the  
828 Board.

829 "Pretreatment standards" means any standards of performance or other requirements imposed by  
830 regulation of the Board upon an industrial user of a publicly owned treatment works.

831 "Reclaimed water" means water resulting from the treatment of domestic, municipal, or industrial  
832 wastewater that is suitable for a direct beneficial or controlled use that would not otherwise occur.  
833 Specifically excluded from this definition is "gray water."

834 "Reclamation" means the treatment of domestic, municipal, or industrial wastewater or sewage to  
835 produce reclaimed water for a direct beneficial or controlled use that would not otherwise occur.

836 "Regulation" means a regulation issued under subdivision (10) of § 62.1-44.15.

837 "Reuse" means the use of reclaimed water for a direct beneficial use or a controlled use that is in  
838 accordance with the requirements of the Board.

839 "Rule" means a rule adopted by the Board to regulate the procedure of the Board pursuant to  
840 subdivision (7) of § 62.1-44.15.

841 "Ruling" means a ruling issued under subdivision (9) of § 62.1-44.15.

842 "Sewage" means the water-carried human wastes from residences, buildings, industrial  
843 establishments or other places together with such industrial wastes and underground, surface, storm, or  
844 other water as may be present.

845 "Sewage treatment works" or "treatment works" means any device or system used in the storage,  
846 treatment, disposal, or reclamation of sewage or combinations of sewage and industrial wastes, including  
847 but not limited to pumping, power, and other equipment, and appurtenances, and any works, including  
848 land, that are or will be (i) an integral part of the treatment process or (ii) used for the ultimate disposal of  
849 residues or effluent resulting from such treatment. These terms shall not include onsite sewage systems or  
850 alternative discharging sewage systems.

851 "Sewerage system" means pipelines or conduits, pumping stations, and force mains, and all other  
852 construction, devices, and appliances appurtenant thereto, used for conducting sewage or industrial wastes  
853 or other wastes to a point of ultimate disposal.

854 "Special order" means a special order issued under subdivisions (8a), (8b), and (8c) of § 62.1-  
855 44.15.



856 "Standards" means standards established under subdivisions (3a) and (3b) of § 62.1-44.15.

857 "State waters" means all water, on the surface and under the ground, wholly or partially within or  
858 bordering the Commonwealth or within its jurisdiction, including wetlands.

859 "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a  
860 frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence  
861 of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps,  
862 marshes, bogs and similar areas.

863 **§ 62.1-44.6:1. Permit rationale.**

864 In granting a permit pursuant to this chapter, the Department shall provide in writing a clear and  
865 concise statement of the legal basis, scientific rationale, and justification for the decision reached. When  
866 the decision of the Department is to deny a permit pursuant to this chapter, the Department shall, in  
867 consultation with legal counsel, provide a clear and concise statement explaining the reason for the denial,  
868 the scientific justification for the same, and how the Department's decision is in compliance with  
869 applicable laws and regulations. Copies of the decision, certified by the Director, shall be mailed by  
870 certified mail to the permittee or applicant.

871 **§ 62.1-44.14. Chairman; Executive Director; employment of personnel; supervision; budget**  
872 **preparation.**

873 The Board shall elect its chairman, and the Executive Director shall be appointed as set forth in §  
874 2.2-106. The Executive Director shall serve as executive officer and devote his whole time to the  
875 performance of his duties, and he shall have such administrative powers as are conferred upon him by the  
876 Board; and, further, the Board may delegate to its Executive Director any of the powers and duties invested  
877 in it by this chapter except the adoption and promulgation of standards, rules and regulations; and the  
878 revocation of certificates. The Executive Director is authorized to issue, modify or revoke orders in cases  
879 of emergency as described in §§ 62.1-44.15 (8b) and 62.1-44.34:20 of this chapter. The Executive Director  
880 is further authorized to employ such consultants and full-time technical and clerical workers as are  
881 necessary and within the available funds to carry out the purposes of this chapter.

882 It shall be the duty of the Executive Director to exercise general supervision and control over the  
883 quality and management of all state waters and to administer and enforce this chapter, and all certificates,  
884 standards, policies, rules, regulations, rulings and special orders promulgated by the Board. The Executive  
885 Director shall prepare, approve, and submit all requests for appropriations and be responsible for all  
886 expenditures pursuant to appropriations. The Executive Director shall be vested with all the authority of  
887 the Board when it is not in session, except for the Board's authority to consider permits pursuant to § 62.1-  
888 44.15:02 and to issue special orders pursuant to subdivisions (8a) and (8b) of § 62.1-44.15 and subject to  
889 such regulations as may be prescribed by the Board. In no event shall the Executive Director have the  
890 authority to adopt or promulgate any regulation.

891 **§ 62.1-44.15:81. Application and preparation of draft certification conditions.**

892 A. Any applicant for a federal license or permit for a natural gas transmission pipeline greater than  
893 36 inches inside diameter subject to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) shall submit  
894 a separate application, at the same time the Joint Permit Application is submitted, to the Department  
895 containing a description of all activities that will occur in upland areas, including activities in or related  
896 to (i) slopes with a grade greater than 15 percent; (ii) karst geology features, including sinkholes and  
897 underground springs; (iii) proximity to sensitive streams and wetlands identified by the Department of  
898 Conservation and Recreation or the Department of Wildlife Resources; (iv) seasonally high water tables;  
899 (v) water impoundment structures and reservoirs; and (vi) areas with highly erodible soils, low pH, and  
900 acid sulfate soils. Concurrently with the Joint Permit Application, the applicant shall also submit a detailed  
901 erosion and sediment control plan and stormwater management plan subject to Department review and  
902 approval.

903 B. After receipt of an application in accordance with subsection A, the Department shall issue a  
904 request for information about how the erosion and sediment control plan and stormwater management  
905 plan will address activities in or related to the upland areas identified in subsection A. The response to  
906 such request shall include the specific strategies and best management practices that will be utilized by  
907 the applicant to address challenges associated with each area type and an explanation of how such  
908 strategies and best management practices will ensure compliance with water quality standards.

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

915 D. The Department shall review the information contained in the application, the response to the  
916 information request in subsection B, and any additional information obtained through any information  
917 requests issued pursuant to subsection C to determine if any activities described in the application or in  
918 any additional information requests (i) are likely to result in a discharge to state waters with the potential  
919 to adversely impact water quality and (ii) will not be addressed by the Virginia Water Protection Permit  
920 issued for the activity pursuant to Article 2.2 (§ 62.1-44.15:20 et seq.). The Department of Wildlife  
921 Resources, the Department of Conservation and Recreation, the Department of Health, and the  
922 Department of Agriculture and Consumer Services shall consult with the Department during the review  
923 of the application and any additional information obtained through any information requests issued  
924 pursuant to subsection B or C. Following the conclusion of its review, the Department shall develop a  
925 draft certification or denial. A draft certification, including (i) any additional conditions for activities in  
926 upland areas necessary to protect water quality and (ii) a condition that the applicant shall not commence  
927 land-disturbing activity prior to approval by the Department of the erosion and sediment control plan and  
928 stormwater management plan required pursuant to subsection E, shall be noticed for public comment and  
929 potential issuance by the Department ~~or the Board pursuant to § 62.1-44.15:02~~. The Department shall  
930 make the information contained in the application and any additional information obtained through any  
931 information requests issued pursuant to subsection B or C available to the public.

932 E. Notwithstanding any applicable annual standards and specifications for erosion and sediment  
933 control or stormwater management pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) or 2.4 (§ 62.1-44.15:51  
934 et seq.), the applicant shall not commence land-disturbing activity prior to resolution of any unresolved  
935 issues identified in subsection B to the satisfaction of the Department and approval by the Department of

936 an erosion and sediment control plan and stormwater management plan in accordance with applicable  
937 regulations. The Department shall act on any plan submittal within 60 days after initial submittal of a  
938 completed plan to the Department. The Department may issue either approval or disapproval and shall  
939 provide written rationale for its decision. The Department shall act on any plan that has been previously  
940 disapproved within 30 days after the plan has been revised and resubmitted for approval.

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

944 G. The Department shall assess an administrative charge to the applicant to cover the direct costs  
945 of services rendered associated with its responsibilities pursuant to this section.

946 H. Neither the Department nor the Board shall expressly waive certification of a natural gas  
947 transmission pipeline of greater than 36 inches inside diameter under § 401 of the federal Clean Water  
948 Act (33 U.S.C. § 1341). The Department or the Board shall act on any certification request within a  
949 reasonable period of time pursuant to federal law. Nothing in this section shall be construed to prohibit  
950 the Department or the Board from taking action to deny a certification in accordance with the provisions  
951 of § 401 of the federal Clean Water Act (33 U.S.C. § 1341).

952 **§ 62.1-44.15:83. Requests for public hearing, hearings, and final decisions procedures.**

953 A. The issuance of a certification pursuant to this article shall be a permit action ~~for purposes of §~~  
954 ~~62.1-44.15:02.~~

955 B. The Department shall assess an administrative charge to the applicant to cover the direct costs  
956 of services rendered associated with its responsibilities pursuant to this section.

957 **§ 62.1-104. Definitions.**

958 (1) Except as modified below, the definitions contained in Title 1 shall apply in this chapter.

959 (2) "Board" means the State Water Control Board. However, when used outside the context of the  
960 promulgation of regulations, including regulations to establish general permits, pursuant to this chapter,

961 "Board" means the Department of Environmental Quality.

962 (3) "Impounding structure" means a man-made device, whether a dam across a watercourse or  
963 other structure outside a watercourse, used or to be used for the authorized storage of flood waters for  
964 subsequent beneficial use.

965 (4) "Watercourse" means a natural channel having a well-defined bed and banks and in which  
966 water flows when it normally does flow. For the purposes hereof they shall be limited to rivers, creeks,  
967 streams, branches, and other watercourses which are nonnavigable in fact and which are wholly within  
968 the jurisdiction of the Commonwealth.

969 (5) "Riparian land" is land which is contiguous to and touches a watercourse. It does not include  
970 land outside the watershed of the watercourse. Real property under common ownership and which is not  
971 separated from riparian land by land of any other ownership shall likewise be deemed riparian land,  
972 notwithstanding that such real property is divided into tracts and parcels which may not bound upon the  
973 watercourse.

974 (6) "Riparian owner" is an owner of riparian land.

975 (7) "Average flow" means the average discharge of a stream at a particular point and normally is  
976 expressed in cubic feet per second. It may be determined from actual measurements or computed from the  
977 most accurate information available.

978 (8) "Diffused surface waters" are those which, resulting from precipitation, flow down across the  
979 surface of the land until they reach a watercourse, after which they become parts of streams.

980 (9) "Floodwaters" means water in a stream which is over and above the average flow.

981 (10) "Court" means the circuit court of the county or city in which an impoundment is located or  
982 proposed to be located.

983 **§ 62.1-242. Definitions.**

984 As used in this chapter, unless the context requires otherwise:

985 "Beneficial use" means both instream and offstream uses. Instream beneficial uses include but are  
986 not limited to protection of fish and wildlife habitat, maintenance of waste assimilation, recreation,  
987 navigation, and cultural and aesthetic values. Offstream beneficial uses include but are not limited to  
988 domestic (including public water supply), agricultural, electric power generation, commercial, and

989 industrial uses. Domestic and other existing beneficial uses shall be considered the highest priority  
990 beneficial uses.

991 "Board" means the State Water Control Board. However, when used outside the context of the  
992 promulgation of regulations, including regulations to establish general permits, pursuant to this chapter,  
993 "Board" means the Department of Environmental Quality.

994 "Nonconsumptive use" means the use of water withdrawn from a stream in such a manner that it  
995 is returned to the stream without substantial diminution in quantity at or near the point from which it was  
996 taken and would not result in or exacerbate low flow conditions.

997 "Surface water withdrawal permit" means a document issued by the Board evidencing the right to  
998 withdraw surface water.

999 "Surface water management area" means a geographically defined surface water area in which the  
1000 Board has deemed the levels or supply of surface water to be potentially adverse to public welfare, health  
1001 and safety.

1002 "Surface water" means any water in the Commonwealth, except ground water, as defined in § 62.1-  
1003 255.

1004 **§ 62.1-248.2. Permit rationale.**

1005 In granting a permit pursuant to this chapter, the Department shall provide in writing a clear and  
1006 concise statement of the legal basis, scientific rationale, and justification for the decision reached. When  
1007 the decision of the Department is to deny a permit pursuant to this chapter, the Department shall, in  
1008 consultation with legal counsel, provide a clear and concise statement explaining the reason for the denial,  
1009 the scientific justification for the same, and how the Department's decision is in compliance with  
1010 applicable laws and regulations. Copies of the decision, certified by the Director, shall be mailed by  
1011 certified mail to the permittee or applicant.

1012 **§ 62.1-255. Definitions.**

1013 As used in this chapter, unless the context requires otherwise:

1014 "Agricultural irrigation" means irrigation that is used to support any operation devoted to the bona  
1015 fide production of crops, animals, or fowl, including the production of fruits and vegetables of any kind;

1016 meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and  
1017 harvest of products from silvicultural activity.

1018 "Beneficial use" includes domestic (including public water supply), agricultural, commercial, and  
1019 industrial uses.

1020 "Board" means the State Water Control Board. However, when used outside the context of the  
1021 promulgation of regulations, including regulations to establish general permits, pursuant to this chapter,

1022 "Board" means the Department of Environmental Quality.

1023 "Department" means the Department of Environmental Quality.

1024 "Eastern Shore Groundwater Management Area" means the ground water management area  
1025 declared by the Board encompassing the Counties of Accomack and Northampton.

1026 "Ground water" means any water, except capillary moisture, beneath the land surface in the zone  
1027 of saturation or beneath the bed of any stream, lake, reservoir or other body of surface water wholly or  
1028 partially within the boundaries of the Commonwealth, whatever the subsurface geologic structure in which  
1029 such water stands, flows, percolates or otherwise occurs.

1030 "Ground water withdrawal permit" means a certificate issued by the Board permitting the  
1031 withdrawal of a specified quantity of ground water in a ground water management area.

1032 "Irrigation" means the controlled application of water through man-made systems to supply water  
1033 requirements not satisfied by rainfall to assist in the growing or maintenance of vegetative growth.

1034 "Nonagricultural irrigation" means all irrigation other than agricultural irrigation.

1035 "Person" means any and all persons, including individuals, firms, partnerships, associations, public  
1036 or private institutions, municipalities or political subdivisions, governmental agencies, or private or public  
1037 corporations organized under the laws of the Commonwealth or any other state or country.

1038 "Surficial aquifer" means the upper surface of a zone of saturation, where the body of ground water  
1039 is not confined by an overlying impermeable zone.

1040 **§ 62.1-263.1. Permit rationale.**

1041 In granting a permit pursuant to this chapter, the Department shall provide in writing a clear and  
1042 concise statement of the legal basis, scientific rationale, and justification for the decision reached. When

1043 the decision of the Department is to deny a permit pursuant to this chapter, the Department shall, in  
1044 consultation with legal counsel, provide a clear and concise statement explaining the reason for the denial,  
1045 the scientific justification for the same, and how the Department's decision is in compliance with  
1046 applicable laws and regulations. Copies of the decision, certified by the Director, shall be mailed by  
1047 certified mail to the permittee or applicant.

1048 **2. That §§ 10.1-1322.01 and 62.1-44.15:02 of the Code of Virginia are repealed.**

1049 **3. That any permits or orders issued by the Air Pollution Control Board or the State Water Control**  
1050 **Board prior to the effective date of this act shall continue in full force and are enforceable by the**  
1051 **Department of Environmental Quality.**

1052 **4. That nothing in this act shall be construed to limit or impact § 3.2-301 or 15.2-2288.6 of the Code**  
1053 **of Virginia.**

1054 #