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**HOUSE BILL NO. 650**

Offered January 9, 2008

Prefiled January 8, 2008

*A BILL to amend and reenact §§ 10.1-1301, 10.1-1307, 10.1-1401, 62.1-44.8, and 62.1-44.15 of the Code of Virginia, relating to the Department of Environmental Quality.*

\_\_\_\_\_  
 Patron—Hogan

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 Referred to Committee on Agriculture, Chesapeake and Natural Resources

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

**1. That §§ 10.1-1301, 10.1-1307, 10.1-1401, 62.1-44.8, and 62.1-44.15 of the Code of Virginia are amended and reenacted as follows:**

§ 10.1-1301. State Air Pollution Control Board; membership; terms; vacancies.

The State Air Pollution Control Board shall be composed of five members appointed by the Governor for four-year terms. Vacancies other than by expiration of term shall be filled by the Governor by appointment for the unexpired term. *Beginning July 1, 2009, one member of the State Air Pollution Control Board shall serve as a member of the State Water Control Board and another member shall serve as a member of the Virginia Waste Management Board.*

§ 10.1-1307. Further powers and duties of Board.

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

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

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

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

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

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

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

3. The suitability of the activity to the area in which it is located; and

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

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

*F1. The Board may delegate to the Director its authority to issue, reissue, revoke, terminate, modify,*

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HB650

59 *amend, and enforce any permits, licenses, and certificates, including variances and exemptions thereto,*  
60 *authorized by the provisions of this chapter. The Board may decline to delegate such authority, in its*  
61 *discretion, if it finds: (i) significant public interest in the issuance, denial, modification, or revocation of*  
62 *the permit; (ii) substantial and disputed issues that are relevant to the issuance, denial, modification, or*  
63 *revocation of the permit; (iii) resolution of the disputed issues is within scope of the Board's statutory*  
64 *authority; and (iv) the Board will be able to take final action in a timely and efficient manner, without*  
65 *undue delay. The Board may also decline to delegate such authority with the consent of the applicant.*  
66 *The Board shall, by regulation, provide demonstrable standards and procedures to determine whether a*  
67 *permit has met the preceding requirements.*

68 G. The Board shall submit an annual report to the Governor and General Assembly on or before  
69 October 1 of each year on matters relating to the Commonwealth's air pollution control policies and on  
70 the status of the Commonwealth's air quality.

71 § 10.1-1401. Virginia Waste Management Board continued.

72 A. The Virginia Waste Management Board is continued and shall consist of seven Virginia residents  
73 appointed by the Governor. *Beginning July 1, 2009, one member of the Virginia Waste Management*  
74 *Board shall serve as a member of the State Water Control Board and another member shall serve as a*  
75 *member of the State Air Pollution Control Board.*

76 Notwithstanding any other provision of this section relating to Board membership, the qualifications  
77 for Board membership shall not be more strict than those which may be required by federal statute or  
78 regulations of the United States Environmental Protection Agency. Upon initial appointment, three  
79 members shall be appointed for four-year terms, two for three-year terms, and two for two-year terms.  
80 Thereafter, all members shall be appointed for terms of four years each. Vacancies occurring other than  
81 by expiration of a term shall be filled by the Governor for the unexpired portion of the term.

82 B. The Board shall adopt rules and procedures for the conduct of its business.

83 C. The Board shall elect a chairman from among its members.

84 D. A quorum shall consist of four members. The decision of a majority of those present and voting  
85 shall constitute a decision of the Board; however, a vote of the majority of the Board membership is  
86 required to constitute a final decision on certification of site approval. Meetings may be held at any time  
87 or place determined by the Board or upon call of the chairman or upon written request of any two  
88 members. All members shall be notified of the time and place of any meeting at least five days in  
89 advance of the meeting.

90 § 62.1-44.8. Number, appointment and terms of members.

91 The Board shall consist of seven members appointed by the Governor, subject to confirmation by the  
92 General Assembly. ~~Members appointed before July 1, 1970, shall continue in office for the terms for~~  
93 ~~which appointed. Effective July 1, 1970, two members shall be appointed for a term of one year, and~~  
94 ~~two members shall be appointed for a term of four years. Thereafter the successors of all members shall~~  
95 ~~be appointed, for the terms of four years each. Beginning July 1, 2009, one member of the State Water~~  
96 ~~Control Board shall serve as a member of the State Air Pollution Control Board and another member~~  
97 ~~shall serve as a member of the Virginia Waste Management Board.~~ Vacancies other than by expiration  
98 of a term shall be filled by the Governor by appointment for the unexpired term.

99 § 62.1-44.15. Powers and duties; civil penalties.

100 It shall be the duty of the Board and it shall have the authority:

101 (1) —Repealed.]

102 (2) To study and investigate all problems concerned with the quality of state waters and to make  
103 reports and recommendations.

104 (2a) To study and investigate methods, procedures, devices, appliances, and technologies that could  
105 assist in water conservation or water consumption reduction.

106 (2b) To coordinate its efforts toward water conservation with other persons or groups, within or  
107 without the Commonwealth.

108 (2c) To make reports concerning, and formulate recommendations based upon, any such water  
109 conservation studies to ensure that present and future water needs of the citizens of the Commonwealth  
110 are met.

111 (3a) To establish such standards of quality and policies for any state waters consistent with the  
112 general policy set forth in this chapter, and to modify, amend or cancel any such standards or policies  
113 established and to take all appropriate steps to prevent quality alteration contrary to the public interest or  
114 to standards or policies thus established, except that a description of provisions of any proposed standard  
115 or policy adopted by regulation which are more restrictive than applicable federal requirements, together  
116 with the reason why the more restrictive provisions are needed, shall be provided to the standing  
117 committee of each house of the General Assembly to which matters relating to the content of the  
118 standard or policy are most properly referable. The Board shall, from time to time, but at least once  
119 every three years, hold public hearings pursuant to § 2.2-4007.01 but, upon the request of an affected  
120 person or upon its own motion, hold hearings pursuant to § 2.2-4009, for the purpose of reviewing the

standards of quality, and, as appropriate, adopting, modifying, or canceling such standards. Whenever the Board considers the adoption, modification, amendment or cancellation of any standard, it shall give due consideration to, among other factors, the economic and social costs and benefits which can reasonably be expected to obtain as a consequence of the standards as adopted, modified, amended or cancelled. The Board shall also give due consideration to the public health standards issued by the Virginia Department of Health with respect to issues of public health policy and protection. If the Board does not follow the public health standards of the Virginia Department of Health, the Board's reason for any deviation shall be made in writing and published for any and all concerned parties.

(3b) Except as provided in subdivision (3a), such standards and policies are to be adopted or modified, amended or cancelled in the manner provided by the Administrative Process Act (§ 2.2-4000 et seq.).

(4) To conduct or have conducted scientific experiments, investigations, studies, and research to discover methods for maintaining water quality consistent with the purposes of this chapter. To this end the Board may cooperate with any public or private agency in the conduct of such experiments, investigations and research and may receive in behalf of the Commonwealth any moneys that any such agency may contribute as its share of the cost under any such cooperative agreement. Such moneys shall be used only for the purposes for which they are contributed and any balance remaining after the conclusion of the experiments, investigations, studies, and research, shall be returned to the contributors.

(5) To issue, revoke or amend certificates under prescribed conditions for: (a) the discharge of sewage, industrial wastes and other wastes into or adjacent to state waters; (b) the alteration otherwise of the physical, chemical or biological properties of state waters; (c) excavation in a wetland; or (d) on and after October 1, 2001, the conduct of the following activities in a wetland: (i) new activities to cause draining that significantly alters or degrades existing wetland acreage or functions, (ii) filling or dumping, (iii) permanent flooding or impounding, or (iv) new activities that cause significant alteration or degradation of existing wetland acreage or functions.

(5a) All certificates issued by the Board under this chapter shall have fixed terms. The term of a Virginia Pollution Discharge Elimination System permit shall not exceed five years. The term of a Virginia Water Protection Permit shall be based upon the projected duration of the project, the length of any required monitoring, or other project operations or permit conditions; however, the term shall not exceed 15 years. The term of a Virginia Pollution Abatement permit shall not exceed 10 years, except that the term of a Virginia Pollution Abatement permit for confined animal feeding operations shall be 10 years. The Department of Environmental Quality shall inspect all facilities for which a Virginia Pollution Abatement permit has been issued at least once every five years, except that the Department shall inspect all facilities covered by the Virginia Pollution Abatement permit for confined animal feeding operations annually. Department personnel performing inspections of confined animal feeding operations shall be certified under the voluntary nutrient management training and certification program established in § 10.1-104.2. The term of a certificate issued by the Board shall not be extended by modification beyond the maximum duration and the certificate shall expire at the end of the term unless an application for a new permit has been timely filed as required by the regulations of the Board and the Board is unable, through no fault of the permittee, to issue a new permit before the expiration date of the previous permit.

(5b) Any certificate issued by the Board under this chapter may, after notice and opportunity for a hearing, be amended or revoked on any of the following grounds or for good cause as may be provided by the regulations of the Board:

1. The owner has violated any regulation or order of the Board, any condition of a certificate, any provision of this chapter, or any order of a court, where such violation results in a release of harmful substances into the environment or poses a substantial threat of release of harmful substances into the environment or presents a hazard to human health or the violation is representative of a pattern of serious or repeated violations which, in the opinion of the Board, demonstrates the owner's disregard for or inability to comply with applicable laws, regulations, or requirements;

2. The owner has failed to disclose fully all relevant material facts or has misrepresented a material fact in applying for a certificate, or in any other report or document required under this law or under the regulations of the Board;

3. The activity for which the certificate was issued endangers human health or the environment and can be regulated to acceptable levels by amendment or revocation of the certificate; or

4. There exists a material change in the basis on which the permit was issued that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the certificate necessary to protect human health or the environment.

(5c) Any certificate issued by the Board under this chapter relating to dredging projects governed under Chapter 12 (§ 28.2-1200 et seq.) or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 may be conditioned upon a demonstration of financial responsibility for the completion of compensatory

182 mitigation requirements. Financial responsibility may be demonstrated by a letter of credit, a certificate  
183 of deposit or a performance bond executed in a form approved by the Board. If the U.S. Army Corps of  
184 Engineers requires demonstration of financial responsibility for the completion of compensatory  
185 mitigation required for a particular project, then the mechanism and amount approved by the U.S. Army  
186 Corps of Engineers shall be used to meet this requirement.

187 (6) To make investigations and inspections, to ensure compliance with any certificates, standards,  
188 policies, rules, regulations, rulings and special orders which it may adopt, issue or establish and to  
189 furnish advice, recommendations, or instructions for the purpose of obtaining such compliance. In  
190 recognition of §§ 32.1-164 and 62.1-44.18, the Board and the State Department of Health shall enter into  
191 a memorandum of understanding establishing a common format to consolidate and simplify inspections  
192 of sewage treatment plants and coordinate the scheduling of the inspections. The new format shall  
193 ensure that all sewage treatment plants are inspected at appropriate intervals in order to protect water  
194 quality and public health and at the same time avoid any unnecessary administrative burden on those  
195 being inspected.

196 (7) To adopt rules governing the procedure of the Board with respect to: (a) hearings; (b) the filing  
197 of reports; (c) the issuance of certificates and special orders; and (d) all other matters relating to  
198 procedure; and to amend or cancel any rule adopted. Public notice of every rule adopted under this  
199 section shall be by such means as the Board may prescribe.

200 (8a) To issue special orders to owners (i) who are permitting or causing the pollution, as defined by  
201 § 62.1-44.3, of state waters to cease and desist from such pollution, (ii) who have failed to construct  
202 facilities in accordance with final approved plans and specifications to construct such facilities in  
203 accordance with final approved plans and specifications, (iii) who have violated the terms and provisions  
204 of a certificate issued by the Board to comply with such terms and provisions, (iv) who have failed to  
205 comply with a directive from the Board to comply with such directive, (v) who have contravened duly  
206 adopted and promulgated water quality standards and policies to cease and desist from such  
207 contravention and to comply with such water quality standards and policies, (vi) who have violated the  
208 terms and provisions of a pretreatment permit issued by the Board or by the owner of a publicly owned  
209 treatment works to comply with such terms and provisions or (vii) who have contravened any applicable  
210 pretreatment standard or requirement to comply with such standard or requirement; and also to issue  
211 such orders to require any owner to comply with the provisions of this chapter and any decision of the  
212 Board. Orders issued pursuant to this subsection may include civil penalties of up to \$32,500 per  
213 violation, not to exceed \$100,000 per order. The Board may assess penalties under this subsection if (a)  
214 the person has been issued at least two written notices of alleged violation by the Department for the  
215 same or substantially related violations at the same site, (b) such violations have not been resolved by  
216 demonstration that there was no violation, by an order issued by the Board or the Director, or by other  
217 means, (c) at least 130 days have passed since the issuance of the first notice of alleged violation, and  
218 (d) there is a finding that such violations have occurred after a hearing conducted in accordance with  
219 subdivision (8b). The actual amount of any penalty assessed shall be based upon the severity of the  
220 violations, the extent of any potential or actual environmental harm, the compliance history of the  
221 facility or person, any economic benefit realized from the noncompliance, and the ability of the person  
222 to pay the penalty. The Board shall provide the person with the calculation for the proposed penalty  
223 prior to any hearing conducted for the issuance of an order that assesses penalties pursuant to this  
224 subsection. The issuance of a notice of alleged violation by the Department shall not be considered a  
225 case decision as defined in § 2.2-4001. Any notice of alleged violation shall include a description of  
226 each violation, the specific provision of law violated, and information on the process for obtaining a  
227 final decision or fact finding from the Department on whether or not a violation has occurred, and  
228 nothing in this section shall preclude an owner from seeking such a determination. Such civil penalties  
229 shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental  
230 Emergency Response Fund (§ 10.1-2500 et seq.), except that civil penalties assessed for violations of  
231 Article 9 (§ 62.1-44.34:8 et seq.) or Article 11 (§ 62.1-44.34:14 et seq.) of this chapter shall be paid into  
232 the Virginia Petroleum Storage Tank Fund in accordance with § 62.1-44.34:11.

233 (8b) Such special orders are to be issued only after a hearing before a hearing officer appointed by  
234 the Supreme Court in accordance with § 2.2-4020 or, if requested by the person, before a quorum of the  
235 Board with at least 30 days' notice to the affected owners, of the time, place and purpose thereof, and  
236 they shall become effective not less than 15 days after service as provided in § 62.1-44.12; provided that  
237 if the Board finds that any such owner is grossly affecting or presents an imminent and substantial  
238 danger to (i) the public health, safety or welfare, or the health of animals, fish or aquatic life; (ii) a  
239 public water supply; or (iii) recreational, commercial, industrial, agricultural or other reasonable uses, it  
240 may issue, without advance notice or hearing, an emergency special order directing the owner to cease  
241 such pollution or discharge immediately, and shall provide an opportunity for a hearing, after reasonable  
242 notice as to the time and place thereof to the owner, to affirm, modify, amend or cancel such emergency  
243 special order. If an owner who has been issued such a special order or an emergency special order is not

complying with the terms thereof, the Board may proceed in accordance with § 62.1-44.23, and where the order is based on a finding of an imminent and substantial danger, the court shall issue an injunction compelling compliance with the emergency special order pending a hearing by the Board. If an emergency special order requires cessation of a discharge, the Board shall provide an opportunity for a hearing within 48 hours of the issuance of the injunction.

(8c) The provisions of this section notwithstanding, the Board may proceed directly under § 62.1-44.32 for any past violation or violations of any provision of this chapter or any regulation duly promulgated hereunder.

(8d) With the consent of any owner who has violated or failed, neglected or refused to obey any regulation or order of the Board, any condition of a permit or any provision of this chapter, the Board may provide, in an order issued by the Board against such person, for the payment of civil charges for past violations in specific sums not to exceed the limit specified in § 62.1-44.32 (a). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under § 62.1-44.32 (a) and shall not be subject to the provisions of § 2.2-514. Such civil charges shall be paid into the state treasury and deposited by the State Treasurer into the Virginia Environmental Emergency Response Fund (§ 10.1-2500 et seq.), excluding civil charges assessed for violations of Article 9 (§ 62.1-44.34:8 et seq.) or 10 (§ 62.1-44.34:10 et seq.) of Chapter 3.1 of this title, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles.

The amendments to this section adopted by the 1976 Session of the General Assembly shall not be construed as limiting or expanding any cause of action or any other remedy possessed by the Board prior to the effective date of said amendments.

(8e) The Board shall develop and provide an opportunity for public comment on guidelines and procedures that contain specific criteria for calculating the appropriate penalty for each violation based upon the severity of the violations, the extent of any potential or actual environmental harm, the compliance history of the facility or person, any economic benefit realized from the noncompliance, and the ability of the person to pay the penalty.

(8f) Before issuing a special order under subdivision (8a) or by consent under (8d), with or without an assessment of a civil penalty, to an owner of a sewerage system requiring corrective action to prevent or minimize overflows of sewage from such system, the Board shall provide public notice of and reasonable opportunity to comment on the proposed order. Any such order under subdivision (8d) may impose civil penalties in amounts up to the maximum amount authorized in § 309(g) of the Clean Water Act. Any person who comments on the proposed order shall be given notice of any hearing to be held on the terms of the order. In any hearing held, such person shall have a reasonable opportunity to be heard and to present evidence. If no hearing is held before issuance of an order under subdivision (8d), any person who commented on the proposed order may file a petition, within 30 days after the issuance of such order, requesting the Board to set aside such order and provide a formal hearing thereon. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Board shall immediately set aside the order, provide a formal hearing, and make such petitioner a party. If the Board denies the petition, the Board shall provide notice to the petitioner and make available to the public the reasons for such denial, and the petitioner shall have the right to judicial review of such decision under § 62.1-44.29 if he meets the requirements thereof.

(9) To make such rulings under §§ 62.1-44.16, 62.1-44.17 and 62.1-44.19 as may be required upon requests or applications to the Board, the owner or owners affected to be notified by certified mail as soon as practicable after the Board makes them and such rulings to become effective upon such notification.

(10) To adopt such regulations as it deems necessary to enforce the general water quality management program of the Board in all or part of the Commonwealth, except that a description of provisions of any proposed regulation which are more restrictive than applicable federal requirements, together with the reason why the more restrictive provisions are needed, shall be provided to the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable.

(11) To investigate any large-scale killing of fish.

(a) Whenever the Board shall determine that any owner, whether or not he shall have been issued a certificate for discharge of waste, has discharged sewage, industrial waste, or other waste into state waters in such quantity, concentration or manner that fish are killed as a result thereof, it may effect such settlement with the owner as will cover the costs incurred by the Board and by the Department of Game and Inland Fisheries in investigating such killing of fish, plus the replacement value of the fish destroyed, or as it deems proper, and if no such settlement is reached within a reasonable time, the Board shall authorize its executive secretary to bring a civil action in the name of the Board to recover from the owner such costs and value, plus any court or other legal costs incurred in connection with such action.

305 (b) If the owner is a political subdivision of the Commonwealth, the action may be brought in any  
306 circuit court within the territory embraced by such political subdivision. If the owner is an  
307 establishment, as defined in this chapter, the action shall be brought in the circuit court of the city or the  
308 circuit court of the county in which such establishment is located. If the owner is an individual or group  
309 of individuals, the action shall be brought in the circuit court of the city or circuit court of the county in  
310 which such person or any of them reside.

311 (c) For the purposes of this subsection the State Water Control Board shall be deemed the owner of  
312 the fish killed and the proceedings shall be as though the State Water Control Board were the owner of  
313 the fish. The fact that the owner has or held a certificate issued under this chapter shall not be raised as  
314 a defense in bar to any such action.

315 (d) The proceeds of any recovery had under this subsection shall, when received by the Board, be  
316 applied, first, to reimburse the Board for any expenses incurred in investigating such killing of fish. The  
317 balance shall be paid to the Board of Game and Inland Fisheries to be used for the fisheries'  
318 management practices as in its judgment will best restore or replace the fisheries' values lost as a result  
319 of such discharge of waste, including, where appropriate, replacement of the fish killed with game fish  
320 or other appropriate species. Any such funds received are hereby appropriated for that purpose.

321 (e) Nothing in this subsection shall be construed in any way to limit or prevent any other action  
322 which is now authorized by law by the Board against any owner.

323 (f) Notwithstanding the foregoing, the provisions of this subsection shall not apply to any owner who  
324 adds or applies any chemicals or other substances that are recommended or approved by the State  
325 Department of Health to state waters in the course of processing or treating such waters for public water  
326 supply purposes, except where negligence is shown.

327 (12) To administer programs of financial assistance for planning, construction, operation, and  
328 maintenance of water quality control facilities for political subdivisions in the Commonwealth.

329 (13) To establish policies and programs for effective area-wide or basin-wide water quality control  
330 and management. The Board may develop comprehensive pollution abatement and water quality control  
331 plans on an area-wide or basin-wide basis. In conjunction with this, the Board, when considering  
332 proposals for waste treatment facilities, is to consider the feasibility of combined or joint treatment  
333 facilities and is to ensure that the approval of waste treatment facilities is in accordance with the water  
334 quality management and pollution control plan in the watershed or basin as a whole. In making such  
335 determinations, the Board is to seek the advice of local, regional, or state planning authorities.

336 (14) To establish requirements for the treatment of sewage, industrial wastes and other wastes that  
337 are consistent with the purposes of this chapter; however, no treatment shall be less than secondary or  
338 its equivalent, unless the owner can demonstrate that a lesser degree of treatment is consistent with the  
339 purposes of this chapter.

340 (15) To promote and establish requirements for the reclamation and reuse of wastewater that are  
341 protective of state waters and public health as an alternative to directly discharging pollutants into waters  
342 of the state. The requirements shall address various potential categories of reuse and may include  
343 general permits and provide for greater flexibility and less stringent requirements commensurate with the  
344 quality of the reclaimed water and its intended use. The requirements shall be developed in consultation  
345 with the Department of Health and other appropriate state agencies. This authority shall not be construed  
346 as conferring upon the Board any power or duty duplicative of those of the State Board of Health.

347 (16) To establish and implement policies and programs to protect and enhance the Commonwealth's  
348 wetland resources. Regulatory programs shall be designed to achieve no net loss of existing wetland  
349 acreage and functions. Voluntary and incentive-based programs shall be developed to achieve a net  
350 resource gain in acreage and functions of wetlands. The Board shall seek and obtain advice and  
351 guidance from the Virginia Institute of Marine Science in implementing these policies and programs.

352 (17) *The Board may delegate to the Director its authority to issue, reissue, revoke, terminate, modify,*  
353 *amend, and enforce any permits, licenses, and certificates, including variances and exemptions thereto,*  
354 *authorized by the provisions of this chapter. The Board may decline to delegate such authority, in its*  
355 *discretion, if it finds: (i) significant public interest in the issuance, denial, modification, or revocation of*  
356 *the permit; (ii) substantial and disputed issues that are relevant to the issuance, denial, modification, or*  
357 *revocation of the permit; (iii) resolution of the disputed issues is within scope of the Board's statutory*  
358 *authority; and (iv) the Board will be able to take final action in a timely and efficient manner, without*  
359 *undue delay. The Board may also decline to delegate such authority with the consent of the applicant.*  
360 *The Board shall, by regulation, provide demonstrable standards and procedures to determine whether a*  
361 *permit has met the preceding requirements.*