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## SENATE BILL NO. 616

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 2.2-106, 2.2-215, 2.2-220.2, 2.2-507, 2.2-4002, 2.2-4024, 2.2-4030, 3.2-108.1, 3.2-801, 3.2-3904, 3.2-3936, 3.2-3937, 3.2-6525, 8.01-480, 9.1-101, 9.1-500, 10.1-204.1, 10.1-211, 10.1-405, 10.1-651, 10.1-659, 10.1-1018, 10.1-1121, 10.1-1152, 10.1-1153, 10.1-1156, 10.1-1186, 10.1-1417, 15.2-915.2, 18.2-56.1, 18.2-134.1, 18.2-308, 18.2-308.02, 18.2-308.03, 18.2-308.06, 18.2-308.016, 22.1-204.2, 24.2-411.2, 24.2-416.3, 28.2-106.1, 28.2-108, 28.2-302.1, 28.2-302.2, 28.2-302.2:1, 28.2-638, 28.2-1103, 28.2-1205.1, 28.2-1302, 28.2-1403, 28.2-1505, 29.1-100, 29.1-101.1, 29.1-102, 29.1-109, 29.1-114, 29.1-300.1, 29.1-302.1, 29.1-302.2, 29.1-309.1, 29.1-358, 29.1-505.1, 29.1-529, 29.1-530.1, 29.1-530.4, 29.1-532, 29.1-753.3, 29.1-801, 30-34.5, 32.1-48.1, 33.2-329, 33.2-613, 33.2-909, 33.2-910, 43-32, 51.1-212, 54.1-3800, 55.1-2902, 56-46.1, 58.1-344.3, 58.1-1405, 58.1-1410, 58.1-2289, 58.1-3510.4, 58.1-3942, 59.1-148.3, 62.1-44.15, as it is currently effective and as it shall become effective, 62.1-44.15:5.01, 62.1-44.15:6, 62.1-44.15:20, 62.1-44.15:81, 62.1-44.19:6, 62.1-44.33, 62.1-44.34:25, 62.1-250, 65.2-402, and 65.2-402.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 29.1-100.1 relating to the Department of Game and Inland Fisheries; name change.

Patron—Deeds

Referred to Committee on Agriculture, Conservation and Natural Resources

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

1. That §§ 2.2-106, 2.2-215, 2.2-220.2, 2.2-507, 2.2-4002, 2.2-4024, 2.2-4030, 3.2-108.1, 3.2-801, 3.2-3904, 3.2-3936, 3.2-3937, 3.2-6525, 8.01-480, 9.1-101, 9.1-500, 10.1-204.1, 10.1-211, 10.1-405, 10.1-651, 10.1-659, 10.1-1018, 10.1-1121, 10.1-1152, 10.1-1153, 10.1-1156, 10.1-1186, 10.1-1417, 15.2-915.2, 18.2-56.1, 18.2-134.1, 18.2-308, 18.2-308.02, 18.2-308.03, 18.2-308.06, 18.2-308.016, 22.1-204.2, 24.2-411.2, 24.2-416.3, 28.2-106.1, 28.2-108, 28.2-302.1, 28.2-302.2, 28.2-302.2:1, 28.2-638, 28.2-1103, 28.2-1205.1, 28.2-1302, 28.2-1403, 28.2-1505, 29.1-100, 29.1-101.1, 29.1-102, 29.1-109, 29.1-114, 29.1-300.1, 29.1-302.1, 29.1-302.2, 29.1-309.1, 29.1-358, 29.1-505.1, 29.1-529, 29.1-530.1, 29.1-530.4, 29.1-532, 29.1-753.3, 29.1-801, 30-34.5, 32.1-48.1, 33.2-329, 33.2-613, 33.2-909, 33.2-910, 43-32, 51.1-212, 54.1-3800, 55.1-2902, 56-46.1, 58.1-344.3, 58.1-1405, 58.1-1410, 58.1-2289, 58.1-3510.4, 58.1-3942, 59.1-148.3, 62.1-44.15, as it is currently effective and as it shall become effective, 62.1-44.15:5.01, 62.1-44.15:6, 62.1-44.15:20, 62.1-44.15:81, 62.1-44.19:6, 62.1-44.33, 62.1-44.34:25, 62.1-250, 65.2-402, and 65.2-402.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 29.1-100.1 as follows:

## § 2.2-106. Appointment of agency heads; disclosure of resumes; severance.

A. Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. Executive Director of the Department of Game and Inland Fisheries Wildlife Resources;
4. Executive Director of the Jamestown-Yorktown Foundation;
5. Executive Director of the Motor Vehicle Dealer Board;
6. Librarian of Virginia;
7. Administrator of the Commonwealth's Attorneys' Services Council;
8. Executive Director of the Virginia Housing Development Authority; and
9. Executive Director of the Board of Accountancy.

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

B. As part of the confirmation process for each administrative head and Secretary, the Secretary of the Commonwealth shall provide copies of the resumes and statements of economic interests filed pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1 through the regular session of that year, copies shall be provided to the chairs within seven

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59 days of the appointment. Each appointee shall be available for interviews by the Committees on  
60 Privileges and Elections or other applicable standing committee. For the purposes of this section and  
61 § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on  
62 Privileges and Elections consisting of five members of the House Committee and three members of the  
63 Senate Committee appointed by the respective chairs of the committees to review the resumes and  
64 statements of economic interests of gubernatorial appointees. The members of the House of Delegates  
65 shall be appointed in accordance with the principles of proportional representation contained in the Rules  
66 of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to  
67 challenge by reason of a failure to comply with the provisions of this subsection pertaining to the  
68 confirmation process.

69 C. For the purpose of this section, "agency" includes all administrative units established by law or by  
70 executive order that are not (i) arms of the legislative or judicial branches of government; (ii)  
71 institutions of higher education as classified under §§ 22.1-346, 23.1-1100, 23.1-3210, and 23.1-3216;  
72 (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation  
73 districts; and (iv) assigned by law to other departments or agencies, not including assignments to  
74 secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

75 D. The resumes and applications for appointment submitted by persons who are appointed by the  
76 Governor pursuant to this section shall be available to the public upon request.

77 E. Severance benefits provided to any departing agency head, whether or not appointed by the  
78 Governor, shall be publicly announced by the appointing authority prior to such departure.

79 **§ 2.2-215. Position established; agencies for which responsible.**

80 The position of Secretary of Natural Resources (the Secretary) is created. The Secretary shall be  
81 responsible to the Governor for the following agencies: Department of Conservation and Recreation,  
82 Department of Historic Resources, Marine Resources Commission, Department of ~~Game and Inland~~  
83 ~~Fisheries~~ *Wildlife Resources*, Virginia Museum of Natural History, and the Department of Environmental  
84 Quality. The Governor may, by executive order, assign any state executive agency to the Secretary of  
85 Natural Resources, or reassign any agency listed in this section to another Secretary.

86 **§ 2.2-220.2. Development of strategies to prevent the introduction of, to control, and to**  
87 **eradicate invasive species.**

88 A. The Secretaries of Natural Resources and Agriculture and Forestry shall coordinate the  
89 development of strategic actions to be taken by the Commonwealth, individual state and federal  
90 agencies, private businesses, and landowners related to invasive species prevention, early detection and  
91 rapid response, control and management, research and risk assessment, and education and outreach. Such  
92 strategic actions shall include the development of a state invasive species management plan. The plan  
93 shall include a list of invasive species that pose the greatest threat to the Commonwealth. The primary  
94 purposes of the plan shall be to address the rising cost of invasive species, to improve coordination  
95 among state and federal agencies' efforts regarding invasive species prevention and management and  
96 information exchange, and to educate the public on related matters. The Secretaries of Natural Resources  
97 and Agriculture and Forestry shall update the state invasive species management plan at least once every  
98 four years. The Department of Conservation and Recreation shall provide staff support.

99 B. The Secretary of Natural Resources shall establish and serve as chair of an advisory group to  
100 develop an invasive species management plan and shall coordinate and implement recommendations of  
101 that plan. Other members of the advisory group shall include the Departments of Conservation and  
102 Recreation, ~~Game and Inland Fisheries~~ *Wildlife Resources*, Environmental Quality, Forestry, Agriculture  
103 and Consumer Services, Health, and Transportation; the Marine Resources Commission; the Virginia  
104 Cooperative Extension; the Virginia Institute of Marine Science; representatives of the agriculture and  
105 forestry industries; the conservation community; interested federal agencies; academic institutions; and  
106 commercial interests. The Secretary of Agriculture and Forestry shall serve as the vice-chair of the  
107 advisory group. The advisory group shall meet at least twice per year and shall utilize ad hoc  
108 committees as necessary with special emphasis on working with affected industries, landowners, and  
109 citizens, and shall assist the Secretary to:

- 110 1. Prevent additional introductions of invasive species to the lands and waters of the Commonwealth;
  - 111 2. Procure, use, and maintain native species to replace invasive species;
  - 112 3. Implement targeted control efforts on those invasive species that are present in the Commonwealth  
113 but are susceptible to such management actions;
  - 114 4. Identify and report the appearance of invasive species before they can become established and  
115 control becomes less feasible;
  - 116 5. Implement immediate control measures if a new invasive species is introduced in Virginia, with  
117 the aim of eradicating that species from Virginia's lands and waters if feasible given the degree of  
118 infestation; and
  - 119 6. Recommend legislative actions or pursue federal grants to implement the plan.
- 120 C. As used in this section, "invasive species" means a species, including its seeds, eggs, spores or

other biological material capable of propagating that species, that is not native to the ecosystem and whose introduction causes or is likely to cause economic or environmental harm or harm to human health; however, this definition shall not include (i) any agricultural crop generally recognized by the United States Department of Agriculture or the Virginia Department of Agriculture and Consumer Services as suitable to be grown in the Commonwealth, or (ii) any aquacultural organism recognized by the Marine Resources Commission or the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* as suitable to be propagated in the Commonwealth.

Nothing in this section shall affect the authorities of any agency represented on the advisory group with respect to invasive species.

**§ 2.2-507. Legal service in civil matters.**

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*;

10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;

11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;

13. Conservation officers of the Department of Conservation and Recreation; or

14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal

182 service to be rendered by him or one of his assistants, he may employ special counsel for this purpose,  
183 whose compensation shall be fixed by the Attorney General. The compensation for such special counsel  
184 shall be paid out of the funds appropriated for the administration of the board, commission, division, or  
185 department being represented or whose members, officers, inspectors, investigators, or other employees  
186 are being represented pursuant to this section. Notwithstanding any provision of this section to the  
187 contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties  
188 in which it, or any justice, is a party.

189 D. Nothing herein shall limit the powers granted in § 16.1-88.03.

190 **§ 2.2-4002. Exemptions from chapter generally.**

191 A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.),  
192 the following agencies shall be exempted from the provisions of this chapter, except to the extent that  
193 they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

194 1. The General Assembly.

195 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly  
196 granted any of the powers of a court of record.

197 3. The Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* in promulgating regulations  
198 regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of  
199 Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and  
200 7 (§ 29.1-700 et seq.) of Title 29.1.

201 4. The Virginia Housing Development Authority.

202 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created  
203 under this Code, including those with federal authorities.

204 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031,  
205 such educational institutions shall be exempt from the publication requirements only with respect to  
206 regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining  
207 of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of  
208 students.

209 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii)  
210 classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for  
211 producers' milk, time and method of payment, butterfat testing and differential.

212 8. The Virginia Resources Authority.

213 9. Agencies expressly exempted by any other provision of this Code.

214 10. The Department of General Services in promulgating standards for the inspection of buildings for  
215 asbestos pursuant to § 2.2-1164.

216 11. The State Council of Higher Education for Virginia, in developing, issuing, and revising  
217 guidelines pursuant to § 23.1-207.

218 12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to  
219 subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

220 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and  
221 Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601,  
222 subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206,  
223 and subsection A of § 3.2-5406.

224 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines,  
225 and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of  
226 optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

227 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to  
228 § 2.2-2001.3.

229 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to  
230 § 22.1-203.2.

231 17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or  
232 in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual  
233 live horse racing at race meetings licensed by the Commission.

234 18. The Virginia Small Business Financing Authority.

235 19. The Virginia Economic Development Partnership Authority.

236 20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations  
237 pursuant to subsection A (ii) of § 59.1-156.

238 21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

239 22. The Board of Health in promulgating the list of diseases that shall be reported to the Department  
240 of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to  
241 subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to  
242 restaurants or food service.

243 23. The Commissioner of the Marine Resources Commission in setting a date of closure for the

Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.

24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7 or 58.1-3219.11.

26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, militia, naval or police functions.

7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1, any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5, and any operating procedures for review of adult deaths developed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

#### **§ 2.2-4024. Hearing officers.**

A. In all formal hearings conducted in accordance with § 2.2-4020, the hearing shall be presided over by a hearing officer selected from a list prepared by the Executive Secretary of the Supreme Court and maintained in the Office of the Executive Secretary of the Supreme Court. Parties to informal fact-finding proceedings conducted pursuant to § 2.2-4019 may agree at the outset of the proceeding to have a hearing officer preside at the proceeding, such agreement to be revoked only by mutual consent. The Executive Secretary may promulgate rules necessary for the administration of the hearing officer

system and shall have the authority to establish the number of hearing officers necessary to preside over administrative hearings in the Commonwealth.

Prior to being included on the list, all hearing officers shall meet the following minimum standards:

1. Active membership in good standing in the Virginia State Bar;
2. Active practice of law for at least five years; and
3. Completion of a course of training approved by the Executive Secretary of the Supreme Court. In order to comply with the demonstrated requirements of the agency requesting a hearing officer, the Executive Secretary may require additional training before a hearing officer shall be assigned to a proceeding before that agency.

B. On request from the head of an agency, the Executive Secretary shall name a hearing officer from the list, selected on a rotation system administered by the Executive Secretary. Lists reflecting geographic preference and specialized training or knowledge shall be maintained by the Executive Secretary if an agency demonstrates the need.

C. A hearing officer appointed in accordance with this section shall be subject to disqualification as provided in § 2.2-4024.1. If the hearing officer denies a petition for disqualification pursuant to § 2.2-4024.1, the petitioning party may request reconsideration of the denial by filing a written request with the Executive Secretary along with an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded, or the applicable rule of practice requiring disqualification.

The issue shall be determined not less than 10 days prior to the hearing by the Executive Secretary.

D. Any hearing officer empowered by the agency to provide a recommendation or conclusion in a case decision matter shall render that recommendation or conclusion as follows:

1. If the agency's written regulations or procedures require the hearing officer to render a recommendation or conclusion within a specified time period, the hearing officer shall render the recommendation or conclusion on or before the expiration of the specified period; and

2. In all other cases, the hearing officer shall render the recommendation or conclusion within 90 days from the date of the case decision proceeding or from a later date agreed to by the named party and the agency.

If the hearing officer does not render a decision within the time required by this subsection, then the agency or the named party to the case decision may provide written notice to the hearing officer and the Executive Secretary of the Supreme Court that a decision is due. If no decision is made within 30 days from receipt by the hearing officer of the notice, then the Executive Secretary of the Supreme Court shall remove the hearing officer from the hearing officer list and report the hearing officer to the Virginia State Bar for possible disciplinary action, unless good cause is shown for the delay.

E. The Executive Secretary shall remove hearing officers from the list, upon a showing of cause after written notice and an opportunity for a hearing. When there is a failure by a hearing officer to render a decision as required by subsection D, the burden shall be on the hearing officer to show good cause for the delay. Decisions to remove a hearing officer may be reviewed by a request to the Executive Secretary for reconsideration, followed by judicial review in accordance with this chapter.

F. This section shall not apply to hearings conducted by (i) any commission or board where all of the members, or a quorum, are present; (ii) the Virginia Alcoholic Beverage Control Authority, the Virginia Workers' Compensation Commission, the State Corporation Commission, the Virginia Employment Commission, the Department of Motor Vehicles under Title 46.2 (§ 46.2-100 et seq.), § 58.1-2409, or Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, or the Motor Vehicle Dealer Board under Chapter 15 (§ 46.2-1500 et seq.) of Title 46.2; or (iii) any panel of a health regulatory board convened pursuant to § 54.1-2400, including any panel having members of a relevant advisory board to the Board of Medicine. All employees hired after July 1, 1986, pursuant to §§ 65.2-201 and 65.2-203 by the Virginia Workers' Compensation Commission to conduct hearings pursuant to its basic laws shall meet the minimum qualifications set forth in subsection A. Agency employees who are not licensed to practice law in the Commonwealth, and are presiding as hearing officers in proceedings pursuant to clause (ii) shall participate in periodic training courses.

G. Notwithstanding the exemptions of subsection A of § 2.2-4002, this article shall apply to hearing officers conducting hearings of the kind described in § 2.2-4020 for the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, the Virginia Housing Development Authority, the Milk Commission, and the Virginia Resources Authority pursuant to their basic laws.

**§ 2.2-4030. Recovery of costs and attorney fees from agency.**

A. In any civil case brought under Article 5 (§ 2.2-4025 et seq.) or § 2.2-4002, 2.2-4006, 2.2-4011, or 2.2-4018, in which any person contests any agency action, such person shall be entitled to recover from that agency, including the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, reasonable costs and attorney fees if such person substantially prevails on the merits of the case and (i) the agency's position is not substantially justified, (ii) the agency action was in violation of law, or (iii) the agency action was for an improper purpose, unless special circumstances would make an award unjust. The

award of attorney fees shall not exceed \$25,000.

B. Nothing in this section shall be deemed to grant permission to bring an action against an agency if the agency would otherwise be immune from suit or to grant a right to bring an action by a person who would otherwise lack standing to bring the action.

C. Any costs and attorney fees assessed against an agency under this section shall be charged against the operating expenses of the agency for the fiscal year in which the assessment is made and shall not be reimbursed from any other source.

**§ 3.2-108.1. Virginia Pollinator Protection Strategy.**

A. The Department shall develop and maintain a Virginia Pollinator Protection Strategy (the Strategy) to (i) promote the health of and mitigate the risks to all pollinator species and (ii) ensure a robust agriculture economy and apiary industry for honeybees and other managed pollinators.

B. In developing the Strategy, the Department shall seek the assistance of the Department of Conservation and Recreation, the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, and the Department of Environmental Quality and shall establish a stakeholder group composed of representatives of affected groups, including beekeepers, agricultural producers, commercial pesticide applicators, private pesticide applicators, pesticide manufacturers, retailers, lawn and turf service providers, agribusiness and farmer organizations, conservation interests, Virginia Polytechnic Institute and State University, Virginia State University, and the Virginia Cooperative Extension.

C. The Strategy shall include a plan for the protection of managed pollinators that provides voluntary best management practices for pesticide users, beekeepers, and landowners and agricultural producers. The protection plan shall support:

1. Communication between beekeepers and applicators;
2. Reduction of the risk to pollinators from pesticides;
3. Increases in pollinator habitat;
4. Maintenance of existing compliance with state pesticide use requirements;
5. Identification of needs for further research to promote robust agriculture and apiary industries; and
6. Identification of additional opportunities for education and outreach on pollinators.

**§ 3.2-801. Powers and duties of Commissioner.**

The Commissioner shall exercise or perform the powers and duties imposed upon him by this chapter. The Commissioner shall make surveys for noxious weeds and when the Commissioner determines that an infestation exists within the Commonwealth, he may request the Board to declare the weed to be noxious under this chapter and the Board shall proceed as specified in § 3.2-802.

The Commissioner in coordination with the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* shall develop a plan for the identification and control of noxious weeds in the surface waters and lakes of the Commonwealth.

The Commissioner may cooperate with any person or any agency of the federal government in carrying out the provisions of this chapter.

Expenses incurred on property owned or controlled by the federal government shall be reimbursed and refunded to the appropriation from which they were expended.

**§ 3.2-3904. Powers and duties of the Board.**

The Board shall have the following powers and duties:

1. Appoint advisory committees as necessary to implement this chapter;
2. Contract for research projects and establish priorities;
3. Consult with the Department of Environmental Quality regarding compliance with the applicable waste management regulations for the safe and proper disposal of pesticide concentrates, used pesticide containers, and unused pesticides;
4. Consult with the Virginia Department of Labor and Industry regarding compliance with the applicable standards and regulations needed to ensure safe working conditions for pest control and agricultural workers;
5. Consult with the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* regarding standards for the protection of wildlife and fish and to further promote cooperation with respect to programs established by the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* for the protection of endangered or threatened species;
6. Inform the citizens of the desirability and availability of nonchemical and less toxic alternatives to chemical pesticides and the benefits of the safe and proper use of pest control products while promoting the use of integrated pest management techniques and encouraging the development of nonchemical and less toxic alternatives to chemical pesticides;
7. Require that pesticides are adequately tested and are safe for use under local conditions;
8. Require that individuals who sell, store, or apply pesticides commercially are adequately trained and observe appropriate safety practices;
9. Cooperate, receive grants-in-aid, and enter into agreements with any federal, state, or local agency

428 to promote the purposes of this chapter;

429 10. Consult with the Department of Health regarding compliance with public health standards;

430 11. Designate any pesticide as state special use or classified for restricted use; and

431 12. Restrict the distribution, possession, sale, or use of tributyltin compounds.

432 **§ 3.2-3936. Sale and application of tributyltin compounds.**

433 A. Except as otherwise provided in this section, it is unlawful to distribute, possess, sell or offer for  
434 sale, apply or offer for use or application any marine antifoulant paint containing tributyltin compounds.  
435 Authorized personnel of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, Virginia  
436 Marine Resources Commission, or the Department may seize any antifoulant paint held in violation of  
437 this article and any seized substances shall be considered forfeited.

438 B. A person may distribute or sell a marine antifoulant paint containing tributyltin with an acceptable  
439 release rate to the owner or agent of a commercial boat yard. The owner or agent of a commercial boat  
440 yard may possess, apply, or purchase an antifoulant paint containing tributyltin with an acceptable  
441 release rate. Such paint may be applied only within a commercial boat yard and only to vessels that  
442 exceed 25 meters (82.02 feet) in length or that have aluminum hulls.

443 C. A person may distribute, sell or apply a marine antifoulant paint containing tributyltin with an  
444 acceptable release rate if: (i) the paint is distributed or sold in a spray can in a quantity of 16 ounces  
445 avoirdupois weight or less; and (ii) is commonly referred to as outboard or lower unit paint.

446 **§ 3.2-3937. Educational programs.**

447 The State Water Control Board, the Board of ~~Game and Inland Fisheries~~ *Wildlife Resources*, the  
448 Virginia Marine Resources Commission, the Virginia Institute of Marine Science, and the Department  
449 shall through cooperative programs develop and implement a program to inform interstate and intrastate  
450 paint manufacturers and distributors, vessel owners, and commercial boat yards of the properties of  
451 tributyltin in marine antifoulant paints and the law to restrict its use.

452 **§ 3.2-6525. Regulations to prevent spread of rabies.**

453 A. The governing body of any locality may adopt such ordinances, regulations or other measures as  
454 may be deemed reasonably necessary to prevent the spread within its boundaries of the disease of rabies.  
455 Penalties may be provided for the violation of any such ordinances. If the ordinance declares the  
456 existence of an emergency, then the ordinance shall be in force upon passage.

457 B. The governing body of any locality may adopt an ordinance creating a program for the  
458 distribution of oral rabies vaccine within its boundaries to prevent the spread of rabies. An ordinance  
459 enacted pursuant to this subsection on or after July 1, 2010, shall be developed in consultation with the  
460 Department of Health and with written authorization from the Department of ~~Game and Inland Fisheries~~  
461 *Wildlife Resources* in accordance with § 29.1-508.1 and shall contain the following provisions:

462 1. Notice shall be given to the owner or occupant of property prior to the entry upon the property for  
463 the purpose of the distribution of oral rabies vaccine or the use of any other methods to place oral rabies  
464 vaccine on the property. Notice shall be given by: (i) sending two letters by first-class mail, at  
465 successive intervals of not less than two weeks set forth in the ordinance; and (ii) printing a copy  
466 thereof, at least once, in a newspaper of general circulation in the locality concerned. Written notice  
467 shall be in a form approved by the governing body and shall include a description of the purpose for  
468 which entry upon the property is to be made, the time and method of rabies vaccine distribution at the  
469 property, and the submission deadline for requests by any owner or occupant of property who wishes to  
470 be excluded from the oral rabies vaccine distribution program.

471 2. The owner or occupant of property may refuse to allow the distribution of oral rabies vaccine  
472 upon such property. The ordinance shall establish procedures to be followed by any owner or occupant  
473 who wishes to be excluded from the oral rabies vaccine distribution program, including the time and  
474 method by which requests for nonparticipation must be received. If the governing body receives a  
475 request for nonparticipation by the owner or occupant of property for the distribution of oral rabies  
476 vaccine, no further action shall be taken to distribute oral vaccine, on such property for a period of one  
477 year.

478 Nothing in this subsection shall be construed to limit any authority for the distribution of oral rabies  
479 vaccine otherwise provided by law.

480 **§ 8.01-480. Prior security interest on property levied on.**

481 Tangible personal property subject to a prior security interest, or in which the execution debtor has  
482 only an equitable interest, may nevertheless be levied on for the satisfaction of a fieri facias. If the prior  
483 security interest is due and payable, the officer levying the fieri facias may sell the property free of such  
484 security interest, and apply the proceeds first to the payment of such security interest, and the residue,  
485 so far as necessary, to the satisfaction of the fieri facias. In the event the property is to be sold free of  
486 such prior security interest, the judgment creditor shall give written notice by certified mail to each  
487 secured party of record as hereafter specified, as his name and address shall appear on record, of the  
488 proposed sale, or to any secured party of whom the judgment creditor shall have actual knowledge. Such  
489 notice shall be given to each secured party who is of record at the State Corporation Commission, at the



Department of Motor Vehicles, at the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, or in the clerk's office in the city or county in Virginia, where the debtor has resided to the knowledge of the judgment creditor at any time during a one-year period prior to the sale. Certification of such notice shall be delivered to the sheriff or other officer conducting the sale pursuant to execution of the judgment, who shall announce that except as to such person so notified, the sale is subject to any prior security interest of record, other than one of record at a place where the debtor may have resided more than one year previously. If such prior security interest is not due and payable at the time of sale, such officer shall sell the property levied on subject to such security interest.

**§ 9.1-101. Definitions.**

As used in this chapter or in Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, unless the context requires a different meaning:

"Administration of criminal justice" means performance of any activity directly involving the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders or the collection, storage, and dissemination of criminal history record information.

"Board" means the Criminal Justice Services Board.

"Conviction data" means information in the custody of any criminal justice agency relating to a judgment of conviction, and the consequences arising therefrom, in any court.

"Correctional status information" means records and data concerning each condition of a convicted person's custodial status, including probation, confinement, work release, study release, escape, or termination of custody through expiration of sentence, parole, pardon, or court decision.

"Criminal history record information" means records and data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal charges, and any disposition arising therefrom. The term shall not include juvenile record information which is controlled by Chapter 11 (§ 16.1-226 et seq.) of Title 16.1, criminal justice intelligence information, criminal justice investigative information, or correctional status information.

"Criminal justice agency" means (i) a court or any other governmental agency or subunit thereof which as its principal function performs the administration of criminal justice and any other agency or subunit thereof which performs criminal justice activities, but only to the extent that it does so; (ii) for the purposes of Chapter 23 (§ 19.2-387 et seq.) of Title 19.2, any private corporation or agency which, within the context of its criminal justice activities, employs special conservators of the peace appointed under Chapter 2 (§ 19.2-12 et seq.) of Title 19.2, provided that (a) such private corporation or agency requires its officers or special conservators to meet compulsory training standards established by the Criminal Justice Services Board and submits reports of compliance with the training standards and (b) the private corporation or agency complies with the provisions of Article 3 (§ 9.1-126 et seq.), but only to the extent that the private corporation or agency so designated as a criminal justice agency performs criminal justice activities; and (iii) the Office of the Attorney General, for all criminal justice activities otherwise permitted under clause (i) and for the purpose of performing duties required by the Civil Commitment of Sexually Violent Predators Act (§ 37.2-900 et seq.).

"Criminal justice agency" includes any program certified by the Commission on VASAP pursuant to § 18.2-271.2.

"Criminal justice agency" includes the Department of Criminal Justice Services.

"Criminal justice agency" includes the Virginia State Crime Commission.

"Criminal justice information system" means a system including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of criminal history record information. The operations of the system may be performed manually or by using electronic computers or other automated data processing equipment.

"Department" means the Department of Criminal Justice Services.

"Dissemination" means any transfer of information, whether orally, in writing, or by electronic means. The term shall not include access to the information by officers or employees of a criminal justice agency maintaining the information who have both a need and right to know the information.

"Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof, or any full-time or part-time employee of a private police department, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, and shall include any (i) special agent of the Virginia Alcoholic Beverage Control Authority; (ii) police agent appointed under the provisions of § 56-353; (iii) officer of the Virginia Marine Police; (iv) conservation police officer who is a full-time sworn member of the enforcement division of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*; (v) investigator who is a sworn member of the security division of the Virginia Lottery; (vi) conservation officer of the

551 Department of Conservation and Recreation commissioned pursuant to § 10.1-115; (vii) full-time sworn  
552 member of the enforcement division of the Department of Motor Vehicles appointed pursuant to  
553 § 46.2-217; (viii) animal protection police officer employed under § 15.2-632 or 15.2-836.1; (ix)  
554 campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; (x)  
555 member of the investigations unit designated by the State Inspector General pursuant to § 2.2-311 to  
556 investigate allegations of criminal behavior affecting the operations of a state or nonstate agency; (xi)  
557 employee with internal investigations authority designated by the Department of Corrections pursuant to  
558 subdivision 11 of § 53.1-10 or by the Department of Juvenile Justice pursuant to subdivision A 7 of  
559 § 66-3; or (xii) private police officer employed by a private police department. Part-time employees are  
560 those compensated officers who are not full-time employees as defined by the employing police  
561 department, sheriff's office, or private police department.

562 "Private police department" means any police department, other than a department that employs  
563 police agents under the provisions of § 56-353, that employs private police officers operated by an entity  
564 authorized by statute or an act of assembly to establish a private police department or such entity's  
565 successor in interest, provided it complies with the requirements set forth herein. No entity is authorized  
566 to operate a private police department or represent that it is a private police department unless such  
567 entity has been authorized by statute or an act of assembly or such entity is the successor in interest of  
568 an entity that has been authorized pursuant to this section, provided it complies with the requirements  
569 set forth herein. The authority of a private police department shall be limited to real property owned,  
570 leased, or controlled by the entity and, if approved by the local chief of police or sheriff, any contiguous  
571 property; such authority shall not supersede the authority, duties, or jurisdiction vested by law with the  
572 local police department or sheriff's office including as provided in §§ 15.2-1609 and 15.2-1704. The  
573 chief of police or sheriff who is the chief local law-enforcement officer shall enter into a memorandum  
574 of understanding with the private police department that addresses the duties and responsibilities of the  
575 private police department and the chief law-enforcement officer in the conduct of criminal investigations.  
576 Private police departments and private police officers shall be subject to and comply with the  
577 Constitution of the United States; the Constitution of Virginia; the laws governing municipal police  
578 departments, including the provisions of §§ 9.1-600, 15.2-1705 through 15.2-1708, 15.2-1719, 15.2-1721,  
579 and 15.2-1722; and any regulations adopted by the Board that the Department designates as applicable  
580 to private police departments. Any person employed as a private police officer pursuant to this section  
581 shall meet all requirements, including the minimum compulsory training requirements, for  
582 law-enforcement officers pursuant to this chapter. A private police officer is not entitled to benefits  
583 under the Line of Duty Act (§ 9.1-400 et seq.) or under the Virginia Retirement System, is not a  
584 "qualified law enforcement officer" or "qualified retired law enforcement officer" within the meaning of  
585 the federal Law Enforcement Officers Safety Act, 18 U.S.C. § 926B et seq., and shall not be deemed  
586 an employee of the Commonwealth or any locality. An authorized private police department may use the  
587 word "police" to describe its sworn officers and may join a regional criminal justice academy created  
588 pursuant to Article 5 (§ 15.2-1747 et seq.) of Chapter 17 of Title 15.2. Any private police department in  
589 existence on January 1, 2013, that was not otherwise established by statute or an act of assembly and  
590 whose status as a private police department was recognized by the Department at that time is hereby  
591 validated and may continue to operate as a private police department as may such entity's successor in  
592 interest, provided it complies with the requirements set forth herein.

593 "School resource officer" means a certified law-enforcement officer hired by the local  
594 law-enforcement agency to provide law-enforcement and security services to Virginia public elementary  
595 and secondary schools.

596 "School security officer" means an individual who is employed by the local school board or a private  
597 or religious school for the singular purpose of maintaining order and discipline, preventing crime,  
598 investigating violations of the policies of the school board or the private or religious school, and  
599 detaining students violating the law or the policies of the school board or the private or religious school  
600 on school property, school buses, or at school-sponsored events and who is responsible solely for  
601 ensuring the safety, security, and welfare of all students, faculty, staff, and visitors in the assigned  
602 school.

603 "Unapplied criminal history record information" means information pertaining to criminal offenses  
604 submitted to the Central Criminal Records Exchange that cannot be applied to the criminal history  
605 record of an arrested or convicted person (i) because such information is not supported by fingerprints  
606 or other accepted means of positive identification or (ii) due to an inconsistency, error, or omission  
607 within the content of the submitted information.

608 **§ 9.1-500. Definitions.**

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

610 "Agency" means the Department of State Police, the Division of Capitol Police, the Virginia Marine  
611 Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries  
612 Wildlife Resources, the Virginia Alcoholic Beverage Control Authority, the Department of Conservation

and Recreation, or the Department of Motor Vehicles; or the political subdivision or the campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer.

"Law-enforcement officer" means any person, other than a Chief of Police or the Superintendent of the Department of State Police, who, in his official capacity, is (i) authorized by law to make arrests and (ii) a nonprobationary officer of one of the following agencies:

a. The Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of ~~Game and Inland Fisheries Wildlife Resources~~, the Virginia Alcoholic Beverage Control Authority, the Department of Motor Vehicles, or the Department of Conservation and Recreation;

b. The police department, bureau or force of any political subdivision or the campus police department of any public institution of higher education of the Commonwealth where such department, bureau or force has three or more law-enforcement officers; or

c. Any conservation police officer as defined in § 9.1-101.

For the purposes of this chapter, "law-enforcement officer" shall not include the sheriff's department of any city or county.

**§ 10.1-204.1. (Expires January 1, 2021) State Trails Advisory Committee established; report.**

A. The State Trails Advisory Committee (the Committee) is hereby established as an advisory committee of the Department of Conservation and Recreation to assist the Commonwealth in developing and implementing a statewide system of attractive, sustainable, connected, and enduring trails for the perpetual use and enjoyment of the citizens of the Commonwealth and future generations. The Committee shall be appointed by the Director of the Department of Conservation and Recreation and shall be composed of a representative from the Department of ~~Game and Inland Fisheries Wildlife Resources~~, the Virginia Department of Transportation, the Virginia Outdoors Foundation, the U.S. Forest Service, and the U.S. National Park Service; the Virginia Director of the Chesapeake Bay Commission; and nonlegislative citizen members, including representatives from the Virginia Outdoors Plan Technical Advisory Committee and the Recreational Trails Advisory Committee and other individuals with technical expertise in trail creation, construction, maintenance, use, and management. The Committee shall meet at least twice each calendar year.

B. The Advisory Committee shall examine and provide recommendations regarding (i) options to close the gaps in a statewide system of trails as described in § 10.1-204; (ii) creative public and private funding strategies and partnerships to leverage resources to fund the development of trails; (iii) integrated approaches to promote and market trail values and benefits; (iv) the development of specialty trails, including concepts related to old-growth forest trails across the Commonwealth; (v) strategies to encourage and create linkages between communities and open space; (vi) strategies to foster communication and networking among trail stakeholders; (vii) strategies to increase tourism and commercial activities associated with a statewide trail system; (viii) strategies to enhance the involvement of organizations that promote outdoor youth activities, including the Boy Scouts of the U.S.A. and Girl Scouts of the U.S.A. and the 4-H program of the Virginia Cooperative Extension; and (ix) other practices, standards, statutes, and guidelines that the Director of the Department of Conservation and Recreation determines may enhance the effectiveness of trail planning across the Commonwealth, including methods for receiving input regarding potential trail impacts upon owners of underlying or neighboring properties.

C. No later than October 1 of each year, the Director shall provide a status report on the work of the Committee to the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources; the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources; and the Chairman and members of the Virginia delegation to the Chesapeake Bay Commission. The report shall include, (i) current and future plans for a statewide system of attractive, sustainable, connected, and enduring trails across the Commonwealth and (ii) any recommendations from the Committee that will be incorporated into the Virginia Outdoors Plan, which plan shall serve as the repository for recommendations from the Committee. The Virginia Outdoors Plan updates shall be used to capture and advance the concepts developed by the Committee.

D. Members of the Committee shall receive no compensation for their service and shall not be entitled to reimbursement for expenses incurred in the performance of their duties.

E. For the purposes of this section, "old-growth forest" means a forest ecosystem distinguished by trees older than 150 years and tree-related structures that naturally contribute to biodiversity of the forested ecosystems and provide habitat to native Virginia wildlife species, including wildlife species that have been approved for introduction by the Department of ~~Game and Inland Fisheries Wildlife Resources~~.

F. The provisions of this section shall expire on January 1, 2021.

**§ 10.1-211. Additional duties of the Department.**

774 In addition to other duties conferred by law, the Department shall, subject to the provisions of this  
775 article:

776 1. Preserve the natural diversity of biological resources of the Commonwealth.

777 2. Maintain a Natural Heritage Program to select and nominate areas containing natural heritage  
778 resources for registration, acquisition, and dedication of natural areas and natural area preserves.

779 3. Develop and implement a Natural Heritage Plan that shall govern the Natural Heritage Program in  
780 the creation of a system of registered and dedicated natural area preserves.

781 4. Publish and disseminate information pertaining to natural areas and natural area preserves.

782 5. Grant permits to qualified persons for the conduct of scientific research and investigations within  
783 natural area preserves.

784 6. Provide recommendations to the Commissioner of the Department of Agriculture and Consumer  
785 Services and to the Board of Agriculture and Consumer Services on species for listing under the  
786 Virginia Endangered Plant and Insect Act, prior to the adoption of regulations therefor.

787 7. Provide recommendations to the Executive Director of the Department of ~~Game and Inland~~  
788 ~~Fisheries Wildlife Resources~~ and to the Board of ~~Game and Inland Fisheries Wildlife Resources~~ on  
789 species for listing under the Virginia Endangered Species Act, prior to the adoption of regulations  
790 therefor.

791 8. Cooperate with other local, state and federal agencies in developing management plans for real  
792 property under their stewardship that will identify, maintain and preserve the natural diversity of  
793 biological resources of the Commonwealth.

794 9. Provide for management, development and utilization of any lands purchased, leased or otherwise  
795 acquired and enforce the provisions of this article governing natural area preserves, the stewardship  
796 thereof, the prevention of trespassing thereon, or other actions deemed necessary to carry out the  
797 provisions of this article.

798 **§ 10.1-405. Duties and powers of the Department; eminent domain prohibited.**

799 A. The Department shall:

800 1. Administer the Virginia Scenic Rivers System to preserve and protect its natural beauty and to  
801 assure its use and enjoyment for its scenic, recreational, geologic, fish and wildlife, historic, cultural or  
802 other assets and to encourage the continuance of existing agricultural, horticultural, forestry and open  
803 space land and water uses.

804 2. Periodically survey each scenic river and its immediate environs and monitor all existing and  
805 proposed uses of each scenic river and its related land resources.

806 3. Assist local governments in solving problems associated with the Virginia Scenic Rivers System,  
807 in consultation with the Director, the Board, and the advisory committees.

808 B. The Department shall not exercise the right of eminent domain to acquire any real property or  
809 interest therein for the purpose of providing additional access to any scenic river. Nothing in this  
810 subsection shall limit or modify any powers granted otherwise to any locality.

811 C. The Department may seek assistance and advice related to the scenic river program from the  
812 Department of ~~Game and Inland Fisheries Wildlife Resources~~, the Department of Forestry, the  
813 Department of Historic Resources, the Virginia Marine Resources Commission, the United States Forest  
814 Service, other state and federal agencies and instrumentalities, and affected local governing bodies.

815 D. The Department shall have the following powers, which may be delegated by the Director:

816 1. To make and enter into all contracts and agreements necessary or incidental to the performance of  
817 its scenic river duties and the execution of its scenic river powers, including but not limited to contracts  
818 with private nonprofit organizations, the United States, other state agencies and political subdivisions of  
819 the Commonwealth;

820 2. To accept bequests and gifts of real and personal property as well as endowments, funds, and  
821 grants from the United States government, its agencies and instrumentalities, and any other source. To  
822 these ends, the Department shall have the power to comply with such conditions and execute such  
823 agreements as may be necessary, convenient, or desirable; and

824 3. To conduct fund-raising activities as deemed appropriate related to scenic river issues.

825 **§ 10.1-651. Establishment and administration of Program.**

826 The Stream Restoration Assistance Program is continued to protect the natural streams of the  
827 Commonwealth. The Program shall aid in the stabilization and protection of natural streams which have  
828 been severely damaged by naturally occurring flooding events. The Program shall be administered by  
829 the Virginia Soil and Water Conservation Board in cooperation with soil and water conservation districts  
830 and local governments throughout the Commonwealth. To assist in the development of the Program, the  
831 Board shall seek the advisory opinion of the State Water Control Board and the Department of ~~Game~~  
832 ~~and Inland Fisheries Wildlife Resources~~.

833 **§ 10.1-659. Flood protection programs; coordination.**

834 The provisions of this chapter shall be coordinated with federal, state and local flood prevention and  
835 water quality programs to minimize loss of life, property damage and negative impacts on the

environment. This program coordination shall include but not be limited to the following: flood prevention, flood plain management, small watershed protection, dam safety, and soil conservation programs of the Department of Conservation and Recreation; the construction activities of the Department of Transportation which result in hydrologic modification of rivers, streams and flood plains; the water quality, Chesapeake Bay Preservation Area criteria, stormwater management, erosion and sediment control, and other water management programs of the State Water Control Board; forested watershed management programs of the Department of Forestry; the statewide building code and other land use control programs of the Department of Housing and Community Development; the habitat management programs of the Virginia Marine Resources Commission; the hazard mitigation planning and disaster response programs of the Department of Emergency Management; the fish habitat protection programs of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*; the mineral extraction regulatory program of the Department of Mines, Minerals and Energy; the flood plain restrictions of the Virginia Waste Management Board; and local government assistance programs of the Virginia Soil and Water Conservation Board. The Department shall also coordinate and cooperate with localities in rendering assistance to such localities in their efforts to comply with the planning, subdivision of land and zoning provisions of Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2. The Department shall cooperate with other public and private agencies having flood plain management programs, and shall coordinate its responsibilities under this article and any other law. These activities shall constitute the Commonwealth's flood prevention and protection program.

**§ 10.1-1018. Virginia Land Conservation Board of Trustees; membership; terms; vacancies; compensation and expenses.**

A. The Foundation shall be governed and administered by a Board of Trustees. The Board shall have a total membership of 19 members that shall consist of 17 citizen members and two ex officio voting members as follows: four citizen members, who may be members of the House of Delegates, to be appointed by the Speaker of the House of Delegates and, if such members are members of the House of Delegates, in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two citizen members, who may be members of the Senate, to be appointed by the Senate Committee on Rules; 11 nonlegislative citizen members, one from each congressional district, to be appointed by the Governor; and the Secretary of Natural Resources, or his designee, and the Secretary of Agriculture and Forestry, or his designee, to serve ex officio with voting privileges. Nonlegislative citizen members shall be appointed for four-year terms, except that initial appointments shall be made for terms of one to four years in a manner whereby no more than six members shall have terms that expire in the same year. Legislative members and the ex officio member shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. However, no Senate member shall serve more than two consecutive four-year terms, no House member shall serve more than four consecutive two-year terms and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Nonlegislative citizen members shall have experience or expertise, professional or personal, in one or more of the following areas: natural resource protection and conservation, construction and real estate development, natural habitat protection, environmental resource inventory and identification, forestry management, farming, farmland preservation, fish and wildlife management, historic preservation, and outdoor recreation. At least one of the nonlegislative citizen members shall be a farmer. Members of the Board shall post bond in the penalty of \$5,000 with the State Comptroller prior to entering upon the functions of office.

B. The Secretary of Natural Resources shall serve as the chairman of the Board of Trustees. The chairman shall serve until his successor is appointed. The members appointed as provided in subsection A shall elect a vice-chairman annually from among the members of the Board. A majority of the members of the Board serving at any one time shall constitute a quorum for the transaction of business. The board shall meet at the call of the chairman or whenever a majority of the members so request.

C. Trustees of the Foundation shall receive no compensation for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties on behalf of the Foundation as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of expenses of the members shall be provided by the Department of Conservation and Recreation.

D. The chairman of the Board and any other person designated by the Board to handle the funds of the Foundation shall give bond, with corporate surety, in such penalty as is fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid from funds available to the Foundation for such purpose.

E. The Board shall seek assistance in developing grant criteria and advice on grant priorities and any other appropriate issues from a task force consisting of the following agency heads or their designees:

797 the Director of the Department of Conservation and Recreation, the Commissioner of Agriculture and  
798 Consumer Services, the State Forester, the Director of the Department of Historic Resources, the  
799 Director of the Department of ~~Game and Inland Fisheries Wildlife Resources~~ and the Executive Director  
800 of the Virginia Outdoors Foundation. The Board may request any other agency head to serve on or  
801 appoint a designee to serve on the task force.

802 **§ 10.1-1121. Definitions.**

803 As used in this article unless the context requires a different meaning:

804 "Fund" means the Forest Management of State-Owned Lands Fund.

805 "State-owned lands" means forest land owned or managed by the various departments, agencies and  
806 institutions of the Commonwealth and designated by the Department in cooperation with the Division of  
807 Engineering and Buildings of the Department of General Services as being of sufficient size and value  
808 to benefit from a forest management plan. State-owned land shall not include properties held or  
809 managed by the Department of ~~Game and Inland Fisheries Wildlife Resources~~, the Department of  
810 Forestry, or the Department of Conservation and Recreation.

811 **§ 10.1-1152. State Forester may require permits and fees.**

812 A. The State Forester is authorized to require any person who engages in certain activities authorized  
813 by regulations promulgated by the Department on any of the lands described in § 10.1-1151 to obtain a  
814 special use permit. A special use permit to engage in these activities on any such lands shall be issued  
815 for a fee established by regulations promulgated by the Department.

816 B. The State Forester is also authorized to enter into an agreement with the Department of ~~Game and~~  
817 ~~Inland Fisheries Wildlife Resources~~ under which the Department of ~~Game and Inland Fisheries Wildlife~~  
818 ~~Resources~~ will include permits required under subsection A in its program for the sale of permits and  
819 licenses by the means and to the extent authorized by § 29.1-327.

820 **§ 10.1-1153. Limitations on rights of holders of permits.**

821 Each special use permit shall entitle the holder to hunt and trap, or to trap, in and upon such lands  
822 of the state forests as shall be determined by the State Forester and designated on the permit, subject to  
823 all other applicable provisions of law or regulations of the Department of ~~Game and Inland Fisheries~~  
824 ~~Wildlife Resources~~ and to such further conditions and restrictions for safeguarding the state forests as  
825 may be imposed by the State Forester and indicated on the permit. In addition to the other provisions of  
826 law applicable to hunting and trapping on the lands of the Commonwealth, the State Forester is  
827 authorized to impose such restrictions and conditions upon hunting and trapping in the state forests as he  
828 deems proper. No such restriction or condition shall be effective for the permit holder unless the  
829 restriction or condition is written, printed, stamped or otherwise indicated on the permit.

830 **§ 10.1-1156. Funds credited to Department; disbursements.**

831 All funds paid into the state treasury pursuant to § 10.1-1152 shall be credited to the Department and  
832 maintained in the Reforestation Operations Fund to be expended annually, in the following order:

833 1. From the annual gross receipts, there shall be paid the costs of preparing and issuing the permits,  
834 including compensation to the Department of ~~Game and Inland Fisheries Wildlife Resources~~, which is  
835 authorized to sell state forest special use permits;

836 2. The remainder may be expended by the State Forester for operation and management in such state  
837 forests. All funds expended by the State Forester in the development, management, and protection of the  
838 game resources in state forests shall be in cooperation with the Department of ~~Game and Inland~~  
839 ~~Fisheries Wildlife Resources~~.

840 **§ 10.1-1186. General powers of the Department.**

841 The Department shall have the following general powers, any of which the Director may delegate as  
842 appropriate:

843 1. Employ such personnel as may be required to carry out the duties of the Department;

844 2. Make and enter into all contracts and agreements necessary or incidental to the performance of its  
845 duties and the execution of its powers under this chapter, including, but not limited to, contracts with  
846 the United States, other states, other state agencies and governmental subdivisions of the  
847 Commonwealth;

848 3. Accept grants from the United States government and agencies and instrumentalities thereof and  
849 any other source. To these ends, the Department shall have the power to comply with such conditions  
850 and execute such agreements as may be necessary, convenient, or desirable;

851 4. Accept and administer services, property, gifts and other funds donated to the Department;

852 5. Implement all regulations as may be adopted by the State Air Pollution Control Board, the State  
853 Water Control Board, and the Virginia Waste Management Board;

854 6. Administer, under the direction of the Boards, funds appropriated to it for environmental programs  
855 and make contracts related thereto;

856 7. Advise and coordinate the responses of state agencies to notices of proceedings by the State Water  
857 Control Board to consider certifications of hydropower projects under 33 U.S.C. § 1341;

858 8. Advise interested agencies of the Commonwealth of pending proceedings when the Department of

Environmental Quality intervenes directly on behalf of the Commonwealth in a Federal Energy Regulatory Commission proceeding or when the Department of ~~Game and Inland Fisheries Wildlife Resources~~ intervenes in a Federal Energy Regulatory Commission proceeding to coordinate the provision of information and testimony for use in the proceedings;

9. Notwithstanding any other provision of law and to the extent consistent with federal requirements, following a proceeding as provided in § 2.2-4019, issue special orders to any person to comply with: (i) the provisions of any law administered by the Boards, the Director or the Department, (ii) any condition of a permit or a certification, (iii) any regulations of the Boards, or (iv) any case decision, as defined in § 2.2-4001, of the Boards or Director. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. The Director shall not delegate his authority to impose civil penalties in conjunction with issuance of special orders. For purposes of this subdivision, "Boards" means the State Air Pollution Control Board, the State Water Control Board, and the Virginia Waste Management Board; and

10. Perform all acts necessary or convenient to carry out the purposes of this chapter.

**§ 10.1-1417. Enforcement of article.**

The Department shall have the authority to contract with other state and local governmental agencies having law-enforcement powers for services and personnel reasonably necessary to carry out the provisions of this article. In addition, all law-enforcement officers in the Commonwealth and those employees of the Department of ~~Game and Inland Fisheries Wildlife Resources~~ vested with police powers shall enforce the provisions of this article and regulations adopted hereunder, and are hereby empowered to arrest without warrant, persons violating any provision of this article or any regulations adopted hereunder. The foregoing enforcement officers may serve and execute all warrants and other process issued by the courts in enforcing the provisions of this article and regulations adopted hereunder.

**§ 15.2-915.2. Regulation of transportation of a loaded rifle or shotgun.**

The governing body of any county or city may by ordinance make it unlawful for any person to transport, possess or carry a loaded shotgun or loaded rifle in any vehicle on any public street, road, or highway within such locality. Any violation of such ordinance shall be punishable by a fine of not more than \$100. Conservation police officers, sheriffs and all other law-enforcement officers shall enforce the provisions of this section. No ordinance adopted pursuant to this section shall be enforceable unless the governing body adopting such ordinance so notifies the Director of the Department of ~~Game and Inland Fisheries Wildlife Resources~~ by registered mail prior to May 1 of the year in which such ordinance is to take effect.

The provisions of this section shall not apply to duly authorized law-enforcement officers or military personnel in the performance of their lawful duties, nor to any person who reasonably believes that a loaded rifle or shotgun is necessary for his personal safety in the course of his employment or business.

**§ 18.2-56.1. Reckless handling of firearms; reckless handling while hunting.**

A. It shall be unlawful for any person to handle recklessly any firearm so as to endanger the life, limb or property of any person. Any person violating this section shall be guilty of a Class 1 misdemeanor.

A1. Any person who handles any firearm in a manner so gross, wanton, and culpable as to show a reckless disregard for human life and causes the serious bodily injury of another person resulting in permanent and significant physical impairment is guilty of a Class 6 felony.

B. If this section is violated while the person is engaged in hunting, trapping or pursuing game, the trial judge may, in addition to the penalty imposed by the jury or the court trying the case without a jury, revoke such person's hunting or trapping license and privileges to hunt or trap while possessing a firearm for a period of one to five years.

C. Upon a revocation pursuant to subsection B hereof, the clerk of the court in which the case is tried pursuant to this section shall forthwith send to the Department of ~~Game and Inland Fisheries Wildlife Resources~~ (i) such person's revoked hunting or trapping license or notice that such person's privilege to hunt or trap while in possession of a firearm has been revoked and (ii) a notice of the length of revocation imposed. The Department shall keep a list which shall be furnished upon request to any law-enforcement officer, the attorney for the Commonwealth or court in this Commonwealth, and such list shall contain the names and addresses of all persons whose license or privilege to hunt or trap while in possession of a firearm has been revoked and the court which took such action.

D. If any person whose license to hunt and trap, or whose privilege to hunt and trap while in possession of a firearm, has been revoked pursuant to this section, thereafter hunts or traps while in possession of a firearm, he shall be guilty of a Class 1 misdemeanor, and, in addition to any penalty imposed by the jury or the court trying the case without a jury, the trial judge may revoke such person's hunting or trapping license and privileges to hunt or trap while in possession of a firearm for a period of one year to life. The clerk of the court shall notify the Department of ~~Game and Inland Fisheries Wildlife Resources~~ as is provided in subsection C herein.

920 **§ 18.2-134.1. Method of posting lands.**

921 A. The owner or lessee of property described in § 18.2-134 may post property by (i) placing signs  
922 prohibiting hunting, fishing or trapping where they may reasonably be seen; or (ii) placing identifying  
923 paint marks on trees or posts at each road entrance and adjacent to public roadways and public  
924 waterways adjoining the property. Each paint mark shall be a vertical line of at least two inches in  
925 width and at least eight inches in length and the center of the mark shall be no less than three feet nor  
926 more than six feet from the ground or normal water surface. Such paint marks shall be readily visible to  
927 any person approaching the property.

928 B. The type and color of the paint to be used for posting shall be prescribed by the Department of  
929 Game and Inland Fisheries *Wildlife Resources*.

930 **§ 18.2-308. Carrying concealed weapons; exceptions; penalty.**

931 A. If any person carries about his person, hidden from common observation, (i) any pistol, revolver,  
932 or other weapon designed or intended to propel a missile of any kind by action of an explosion of any  
933 combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor,  
934 slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more  
935 rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun  
936 chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration,  
937 having at least two points or pointed blades which is designed to be thrown or propelled and which may  
938 be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this  
939 subsection, he is guilty of a Class 1 misdemeanor. A second violation of this section or a conviction  
940 under this section subsequent to any conviction under any substantially similar ordinance of any county,  
941 city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be  
942 punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden  
943 from common observation when it is observable but is of such deceptive appearance as to disguise the  
944 weapon's true nature. It shall be an affirmative defense to a violation of clause (i) regarding a handgun,  
945 that a person had been issued, at the time of the offense, a valid concealed handgun permit.

946 B. This section shall not apply to any person while in his own place of abode or the curtilage  
947 thereof.

948 C. Except as provided in subsection A of § 18.2-308.012, this section shall not apply to:

949 1. Any person while in his own place of business;  
950 2. Any law-enforcement officer, or retired law-enforcement officer pursuant to § 18.2-308.016,  
951 wherever such law-enforcement officer may travel in the Commonwealth;

952 3. Any person who is at, or going to or from, an established shooting range, provided that the  
953 weapons are unloaded and securely wrapped while being transported;

954 4. Any regularly enrolled member of a weapons collecting organization who is at, or going to or  
955 from, a bona fide weapons exhibition, provided that the weapons are unloaded and securely wrapped  
956 while being transported;

957 5. Any person carrying such weapons between his place of abode and a place of purchase or repair,  
958 provided the weapons are unloaded and securely wrapped while being transported;

959 6. Any person actually engaged in lawful hunting, as authorized by the Board of Game and Inland  
960 Fisheries *Wildlife Resources*, under inclement weather conditions necessitating temporary protection of  
961 his firearm from those conditions, provided that possession of a handgun while engaged in lawful  
962 hunting shall not be construed as hunting with a handgun if the person hunting is carrying a valid  
963 concealed handgun permit;

964 7. Any attorney for the Commonwealth or assistant attorney for the Commonwealth, wherever such  
965 attorney may travel in the Commonwealth;

966 8. Any person who may lawfully possess a firearm and is carrying a handgun while in a personal,  
967 private motor vehicle or vessel and such handgun is secured in a container or compartment in the  
968 vehicle or vessel;

969 9. Any enrolled participant of a firearms training course who is at, or going to or from, a training  
970 location, provided that the weapons are unloaded and securely wrapped while being transported; and

971 10. Any judge or justice of the Commonwealth, wherever such judge or justice may travel in the  
972 Commonwealth.

973 D. This section shall also not apply to any of the following individuals while in the discharge of  
974 their official duties, or while in transit to or from such duties:

975 1. Carriers of the United States mail;

976 2. Officers or guards of any state correctional institution;

977 3. Conservators of the peace, except that a judge or justice of the Commonwealth, an attorney for the  
978 Commonwealth, or an assistant attorney for the Commonwealth may carry a concealed handgun pursuant  
979 to subdivisions C 7 and 10. However, the following conservators of the peace shall not be permitted to  
980 carry a concealed handgun without obtaining a permit as provided in this article: (i) notaries public; (ii)  
981 registrars; (iii) drivers, operators, or other persons in charge of any motor vehicle carrier of passengers



for hire; or (iv) commissioners in chancery;

4. Noncustodial employees of the Department of Corrections designated to carry weapons by the Director of the Department of Corrections pursuant to § 53.1-29; and

5. Harbormaster of the City of Hopewell.

**§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.**

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States Armed Forces and stationed outside the Commonwealth, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. Additionally, the application shall request but not require that the applicant provide an email or other electronic address where a notice of permit expiration can be sent pursuant to subsection C of § 18.2-308.010. The applicant shall present one valid form of photo identification issued by a governmental agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport). No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries Wildlife Resources or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or online course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § 18.2-434.

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

F. For purposes of this section, a member of the United States Armed Forces is domiciled in the

county or city where such member claims his home of record with the United States Armed Forces.

**§ 18.2-308.03. Fees for concealed handgun permits.**

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries *Wildlife Resources*, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.

**§ 18.2-308.06. Nonresident concealed handgun permits.**

A. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. The applicant shall submit a photocopy of one valid form of photo identification issued by a governmental agency of the applicant's state of residency or by the U.S. Department of Defense or U.S. State Department (passport). Every applicant for a nonresident concealed handgun permit shall also submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the U.S. Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsection C of § 18.2-308.02 and § 18.2-308.09 shall apply, mutatis mutandis, to the provisions of this subsection.

B. The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries *Wildlife Resources* or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, institution of higher education, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;
4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

C. The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program.

D. The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date.

E. The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

**§ 18.2-308.016. Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries Wildlife Resources, any conservation officer retired from the Department of Conservation and Recreation, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work as a law-enforcement officer or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such

law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

#### **§ 22.1-204.2. Hunter safety education programs for students in grades seven through 12.**

A. Local school boards may provide after-school hunter safety education programs for students in the school division in grades seven through 12. Each student shall bear the cost of participating in such programs. Local school boards shall display information on its after-school hunter safety education programs in each school and distribute information to the parents of each student in the school division in grades seven through 12.

B. The Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* shall establish a uniform curriculum for such hunter safety education programs. Each such program shall be taught by a hunter safety instructor certified pursuant to § 29.1-300.2.

#### **§ 24.2-411.2. State-designated voter registration agencies.**

A. The following agencies are designated as voter registration agencies in compliance with the National Voter Registration Act (52 U.S.C. § 20501 et seq.) and shall provide voter registration opportunities at their state, regional, or local offices, depending upon the point of service:

1. Agencies whose primary function is to provide public assistance, including agencies that provide benefits under the Temporary Assistance for Needy Families program; Special Supplemental Food Program for Women, Infants, and Children; Medicaid program; or Food Stamps program;

2. Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities;

3. Armed Forces recruitment offices; and

4. The regional offices of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* and the offices of the Virginia Employment Commission in the Northern Virginia Planning District 8.

B. The Commissioner of Elections, with the assistance of the Office of the Attorney General, shall compile and maintain a list of the specific agencies covered by subdivisions A 1 and A 2 that, in the legal opinion of the Attorney General, must be designated to meet the requirements of the National Voter Registration Act. The Commissioner of Elections shall notify each agency of its designation and thereafter notify any agency added to or deleted from the list.

C. At each voter registration agency, the following services shall be made available on the premises of the agency:

1. Distribution of mail voter registration forms provided by the Department of Elections;

2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and

3. Receipt of completed voter registration application forms.

D. A voter registration agency, which provides service or assistance in conducting voter registration, shall make the following services available on the premises of the agency:

1. Distribution with each application for its service or assistance, or upon admission to a facility or program, and with each recertification, readmission, renewal, or change of address form, of a voter registration application prescribed by the Department of Elections that complies with the requirements of the National Voter Registration Act (52 U.S.C. § 20501 et seq.).

2. Provision, as part of the voter registration process, of a form that includes:

a. The question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?"

b. If the agency provides public assistance, the statement: "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."

c. Boxes for the applicant to check to indicate whether the applicant would like to register, declines to register to vote, or is already registered (failure to check any box being deemed to constitute a declination to register for purposes of subdivision 2 a), together with the statement (in close proximity to the boxes and in prominent type): "IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME."

d. The statement: "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek help or accept help is yours. You may fill out the application form in private."

e. The statement: "If you believe that someone has interfered with your right to register or to decline to register to vote, or your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the Department of Elections." The statement shall include the address and telephone number of the Department.

f. The following statement accompanying the form which features prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

3. Provision to each applicant who does not decline to register to vote of the same degree of assistance with regard to the completion of the voter registration application as is provided by the office with regard to the completion of its own applications, unless the applicant refuses assistance.

E. If a voter registration agency designated under subsection A of this section provides services to a person with a disability at the person's home, the agency shall provide the voter registration services as provided for in this section.

F. A person who provides services at a designated voter registration agency shall not:

1. Seek to influence an applicant's political preference;

2. Display any material indicating the person's political preference or party allegiance;

3. Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of

1289 services or benefits; or

1290 4. Disclose, except as authorized by law for official use, the social security number, or any part  
1291 thereof, of any applicant for voter registration.

1292 Any person who is aggrieved by a violation of this subsection may provide written notice of the  
1293 violation to the Department. The Department shall be authorized to cooperate with the agency to resolve  
1294 the alleged violation. Nothing contained in this subsection shall prohibit an aggrieved person from filing  
1295 a complaint in accordance with § 24.2-1019 against a person who commits any election law offense  
1296 enumerated in §§ 24.2-1000 through 24.2-1016.

1297 G. A completed voter registration application shall be transmitted as directed by the Department not  
1298 later than five business days after the date of receipt.

1299 H. Each state-designated voter registration agency shall maintain such statistical records on the  
1300 number of applications to register to vote as requested by the Department.

1301 **§ 24.2-416.3. Distribution of mail voter registration application forms.**

1302 A. Subject to the conditions set forth in § 24.2-416.6, the Department of Elections shall make  
1303 available to any individual or group a reasonable number of mail voter registration application forms.

1304 B. The Department shall provide a reasonable number of mail voter registration application forms to  
1305 each agent of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* authorized to sell  
1306 hunting or fishing licenses in Virginia. The Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*  
1307 shall assist the Department by providing a list of its agents appointed to sell hunting and fishing licenses  
1308 in Virginia and by instructing its agents to make the mail voter registration application forms available  
1309 to persons purchasing hunting or fishing licenses.

1310 **§ 28.2-106.1. Patrol and enforcement of federal safety zones and restricted areas.**

1311 Pursuant to federal authorization or upon request from a federal agency, the Virginia Marine Police,  
1312 conservation police officers of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, and the  
1313 marine patrol divisions of police departments located in Tidewater Virginia may patrol and enforce all  
1314 federal security zones, federal safety zones, and federal restricted areas located within the tidal waters of  
1315 the Commonwealth.

1316 **§ 28.2-108. Marine Patrols Fund continued.**

1317 A. The Marine Patrols Fund is continued and hereinafter referred to as the Fund, which shall consist  
1318 of moneys appropriated to it by the General Assembly. The Comptroller shall annually distribute  
1319 moneys from the Fund for the following purposes:

1320 1. To cover the Commission's costs for its operation of a marine police dispatch service.

1321 2. To reimburse each county or city in Tidewater Virginia or any county abutting Smith Mountain  
1322 Lake for its operation of a marine patrol or for providing marine patrol services in waters under the  
1323 jurisdiction of the Commonwealth. The amount to be paid to each county or city shall be as specifically  
1324 provided for in the General Appropriations Act. The Comptroller, upon certification by the  
1325 Commissioner, shall make such payments no later than February 1. The total amount provided to any  
1326 county or city shall not exceed twenty dollars per motorboat registered in the locality on January 1 of  
1327 that year, as determined by the records of the Board of ~~Game and Inland Fisheries~~ *Wildlife Resources*.

1328 B. If total distributions allowable under subsection A of this section exceed the amount of revenues  
1329 appropriated to the Fund, each qualifying county or city shall receive a prorated share.

1330 C. The Commissioner may obtain from any county or city seeking funds under this section any  
1331 information he needs to determine the amount of funds to which such county or city may be entitled.

1332 D. For the purposes of this section, the terms "marine patrol" and "marine patrol services" mean  
1333 water-borne law-enforcement, safety, and rescue activities.

1334 **§ 28.2-302.1. Recreational license required.**

1335 Except in areas under the jurisdiction of the Department of ~~Game and Inland Fisheries~~ *Wildlife*  
1336 *Resources* and as provided in § 28.2-302.5, a person shall not take or catch fish with rod and reel, hand  
1337 line, by spearing or gigging, with a cast net, with a dip net, or by using up to two eel pots in the tidal  
1338 waters of the Commonwealth under the jurisdiction of the Commission without first obtaining a  
1339 saltwater recreational fishing license. The license required by this section and issued pursuant to §  
1340 28.2-302.2, 28.2-302.2:1, 28.2-302.6, 28.2-302.7, 28.2-302.8, 28.2-302.9 or 28.2-302.10 shall not be  
1341 transferable.

1342 **§ 28.2-302.2. Recreational license fee; cooperative program.**

1343 A. The annual fee for the saltwater recreational fishing license shall be seven dollars and fifty cents  
1344 or as subsequently revised by the Commission pursuant to § 28.2-201. Agents of the Commission shall  
1345 retain the agent's fee established by the Board of ~~Game and Inland Fisheries~~ *Wildlife Resources* pursuant  
1346 to subsection B of § 29.1-327, except that the agent's fee shall be deducted from the license fee  
1347 established by the Commission pursuant to subdivision 4 of § 28.2-201, as compensation for issuing  
1348 each license.

1349 B. All funds collected under this section shall be paid into the state treasury to the credit of the  
1350 Virginia Saltwater Recreational Fishing Development Fund, as established in § 28.2-302.3.

C. The Commission shall enter into cooperative programs with the Department of ~~Game and Inland Fisheries Wildlife Resources~~ as are necessary to carry out the provisions of this section.

D. The Commission shall also have the power necessary to conduct and establish cooperative fish projects with the federal government as prescribed by Congress and in compliance with rules and regulations promulgated by the United States Secretary of the Interior.

E. Upon implementation of an automated point-of-sale licensing system, licenses issued under this section shall be valid for one year from their date of purchase.

**§ 28.2-302.2:1. Special combined individual sportfishing licenses.**

A. Residents and nonresidents of the Commonwealth may obtain:

1. A special combined sportfishing license to fish in all inland waters and the tidal waters of the Commonwealth during the open season. For residents, this license shall be in lieu of the state resident freshwater fishing license required by subdivision A 2 of § 29.1-310, and the saltwater recreational license required by § 28.2-302.1. The cost of this license for residents shall be the sum of the costs of the two component resident licenses. For nonresidents, this license shall be in lieu of the state nonresident freshwater fishing license required by subdivision A 3 of § 29.1-310 and the saltwater recreational license required by § 28.2-302.1. The cost of this license for nonresidents shall be the sum of the costs of the two component nonresident licenses.

Agents of the Commission shall retain the agent's fee established by the Board of ~~Game and Inland Fisheries Wildlife Resources~~ pursuant to subsection B of § 29.1-327, except that the agent's fee shall be deducted from the license fee established by the Commission pursuant to subdivision 4 of § 28.2-201, as compensation for issuing each license. Of the funds collected under this subdivision, (i) the cost of the component saltwater license shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund, as established in § 28.2-302.3, and (ii) the cost of the component freshwater fishing license shall be paid into the state treasury to the credit of the Game Protection Fund, as established in § 29.1-101.

The two component licenses shall be independently priced by their respective agencies. The saltwater recreational license shall be priced by the Commission pursuant to § 28.2-201. The freshwater fishing license shall be priced by the Board of ~~Game and Inland Fisheries Wildlife Resources~~ pursuant to § 29.1-103.

2. A special combined sportfishing license to fish in all the tidal waters of the Commonwealth during the open season that covers the owner of a recreational boat not carrying anglers for hire, in any registered boat owned and operated by him, and his passengers. For residents, this license shall be in lieu of the state resident fishing license required by subdivision A 2 of § 29.1-310, the saltwater recreational license required by § 28.2-302.1, and the saltwater recreational boat license established by § 28.2-302.7. The cost of this license for residents shall be \$125. For nonresidents, this license shall be in lieu of the state nonresident fishing license required by subdivision A 3 of § 29.1-310 and the saltwater recreational license required by § 28.2-302.1. The cost of this license for nonresidents shall be \$200.

Agents of the Commission shall retain the agent's fee established by the Board of ~~Game and Inland Fisheries Wildlife Resources~~ pursuant to subsection B of § 29.1-327, except that the agent's fee shall be deducted from the license fee established by the Commission pursuant to subdivision 4 of § 28.2-201, as compensation for issuing each license. Of the funds collected under this subdivision, (i) \$48 per resident license sold and \$76 per nonresident license sold shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund, as established in § 28.2-302.3, and (ii) \$77 per resident license sold and \$124 per nonresident sold shall be paid into the state treasury to the credit of the Game Protection Fund, as established in § 29.1-101.

B. Residents and nonresidents of the Commonwealth may obtain a special combined sportfishing trip license to fish in all inland waters and tidal waters of the Commonwealth during the open season. This license shall be in lieu of the trip fishing license specified in subsection A of § 29.1-311 and the saltwater recreational license required by § 28.2-302.1. The cost of the license shall be \$10.50 for residents and \$15.50 for nonresidents. The license shall be valid for five successive days as specified on the face of the license. Agents of the Commission shall retain the agent's fee established pursuant to subsection B of § 29.1-327, except that the agent's fee shall be deducted from the license fee established by the Commission pursuant to subdivision 4 of § 28.2-201, as compensation for issuing each license. Of the funds collected under this subsection, (i) \$5 per license sold shall be paid into the state treasury to the credit of the Virginia Saltwater Recreational Fishing Development Fund and (ii) \$5 per resident license sold and \$10 per nonresident license sold shall be paid into the state treasury to the credit of the Game Protection Fund.

C. The Commission may subsequently revise the cost of licenses in this section pursuant to § 28.2-201.

**§ 28.2-638. Authority of Governor to authorize dredging of channel in navigable waters.**

When the approval, consent, or authorization of the Commonwealth is necessary or expedient for any person to dredge a channel of any navigable stream, the bed of which is owned by the Commonwealth, for the purpose of deepening, widening, or relocating such channel and making related improvements, the Governor may, on behalf of the Commonwealth, grant such approval upon such terms and conditions as he deems appropriate after the receipt of advisory reports from the Virginia Institute of Marine Science, the State Water Control Board, the Commission, the Board of Game and Inland Fisheries Wildlife Resources, the Director of the Department of Conservation and Recreation, the Director of the Department of Historic Resources, the State Port Authority, and the Commonwealth Transportation Board.

**§ 28.2-1103. Virginia Estuarine and Coastal Research Reserve System created; purpose; Virginia Institute of Marine Science to administer.**

A. There is hereby created the Virginia Estuarine and Coastal Research Reserve System (the System) for the purpose of establishing a system of protected sites representative of the Commonwealth's estuarine and coastal lands in which research and long-term monitoring will be conducted in support of the Commonwealth's coastal resource management efforts.

B. The System shall be established and administered by the Virginia Institute of Marine Science of the College of William and Mary in Virginia. The Institute shall consult with and seek the advice of the Virginia Coastal Program and of those state agencies responsible for administering programs of the Virginia Coastal Program; the Marine Resources Commission; the Department of Game and Inland Fisheries Wildlife Resources; the Department of Conservation and Recreation; the Department of Health; and the Department of Environmental Quality.

C. Sites included within the System shall be within any jurisdiction included in Tidewater Virginia as defined in § 62.1-44.15:68.

D. The Institute may accept the dedication, by voluntary act of the owner, of areas it deems suitable for the System. Dedication may include transfer of fee simple title or other interest in land to the Commonwealth or may be in the form of voluntary agreement with the owner to include the area within the System. Estuarine and Coastal Research Reserve System sites may also be acquired by gift, grant, or purchase.

E. The instrument of dedication may:

1. Contain restrictions and other provisions relating to management, use, development, transfer, and public access, and may contain any other restrictions and provisions as may be necessary or advisable to further the purposes of this article;

2. Define, consistent with the purposes of the article, the respective rights and duties of the owner and of the Commonwealth and provide procedures to be followed in case of violations of the restriction;

3. Recognize and create reversionary right, transfers upon conditions or with limitations, and gifts over; and

4. Vary in provisions from one System site to another, in accordance with differences in the characteristics and conditions of the several areas.

F. Public departments, commissions, boards, counties, municipalities, corporations, and institutions of higher education and all other agencies and instrumentalities of the Commonwealth and its political subdivisions may enter into agreements with the Institute to dedicate suitable areas within their jurisdictions as Estuarine and Coastal Research Reserve System sites.

G. Subject to the approval of the Governor and the Attorney General, the Commonwealth may enter into amendments to the instrument of dedication upon finding that the amendment will not permit an impairment, disturbance, use, or development of the area that is inconsistent with the provisions of this article. If a fee simple estate in the Estuarine and Coastal Research Reserve System is not held by the Institute under this article, no amendment may be made without the written consent of the owner of the other interests therein.

H. The Institute is empowered to enter into agreements with federal agencies holding title to lands within Tidewater Virginia to include suitable portions of agency holdings in the Virginia Estuarine and Coastal Research Reserve System.

I. All lands within the system shall be used primarily for research and education. Other public uses such as hunting and recreation on those research reserve lands owned by the Institute shall be allowed, consistent with these primary uses. Improvements and alterations to research reserve lands owned by the Institute shall be limited to those consistent with these uses.

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

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

B. The Commissioner and the Director of the Department of Environmental Quality, in consultation with the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries Wildlife Resources, the Department of Historic Resources, the Department of Health, the Department of



Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services, and any other appropriate or interested state agency, shall coordinate the joint review process to ensure the orderly evaluation of projects requiring both permits.

C. The joint review process shall include, but not be limited to, provisions to ensure that: (i) the initial application for the project shall be advertised simultaneously by the Commission and the Department of Environmental Quality; (ii) project reviews shall be completed by all state agencies that have been asked to review and provide comments, within 45 days of project notification by the Commission and the Department of Environmental Quality; (iii) the Commission and the State Water Control Board shall coordinate permit issuance and, to the extent practicable, shall take action on the permit application no later than one year after the agencies have received complete applications; (iv) to the extent practicable, the Commission and the State Water Control Board shall take action concurrently, but no more than six months apart; and (v) upon taking its final action on each permit, the Commission and the State Water Control Board shall provide each other with notification of its action and any and all supporting information, including any background materials or exhibits used in the application.

**§ 28.2-1302. Adoption of wetlands zoning ordinance; terms of ordinance.**

Any county, city or town may adopt the following ordinance, which, after October 1, 1992, shall serve as the only wetlands zoning ordinance under which any wetlands board is authorized to operate. Any county, city, or town which has adopted the ordinance prior to October 1, 1992, shall amend the ordinance to conform it to the ordinance contained herein by October 1, 1992.

**Wetlands Zoning Ordinance**

§ 1. The governing body of....., acting pursuant to Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of wetlands.

§ 2. As used in this ordinance, unless the context requires a different meaning:

"Back Bay and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Virginia Beach, North Bay, and Knotts Island: Back Bay north of the Virginia-North Carolina state line; Capsies Creek north of the Virginia-North Carolina state line; Deal Creek; Devil Creek; Nawney Creek; Redhead Bay, Sand Bay, Shipps Bay, North Bay, and the waters connecting them; Beggars Bridge Creek; Muddy Creek; Ashville Bridge Creek; Hells Point Creek; Black Gut; and all coves, ponds and natural waterways adjacent to or connecting with the above-named bodies of water.

"Commission" means the Virginia Marine Resources Commission.

"Commissioner" means the Commissioner of Marine Resources.

"Governmental activity" means any of the services provided by this.. (county, city, or town) to its citizens for the purpose of maintaining this... (county, city, or town), including but not limited to such services as constructing, repairing and maintaining roads; providing sewage facilities and street lights; supplying and treating water; and constructing public buildings.

"Nonvegetated wetlands" means unvegetated lands lying contiguous to mean low water and between mean low water and mean high water, including those unvegetated areas of Back Bay and its tributaries and the North Landing River and its tributaries subject to flooding by normal and wind tides but not hurricane or tropical storm tides.

"North Landing River and its tributaries" means the following, as shown on the United States Geological Survey Quadrangle Sheets for Pleasant Ridge, Creeds, and Fentress: the North Landing River from the Virginia-North Carolina line to Virginia Highway 165 at North Landing Bridge; the Chesapeake and Albemarle Canal from Virginia Highway 165 at North Landing Bridge to the locks at Great Bridge; and all named and unnamed streams, creeks and rivers flowing into the North Landing River and the Chesapeake and Albemarle Canal except West Neck Creek north of Indian River Road, Pocaty River west of Blackwater Road, Blackwater River west of its forks located at a point approximately 6400 feet due west of the point where Blackwater Road crosses the Blackwater River at the village of Blackwater, and Millbank Creek west of Blackwater Road.

"Person" means any individual, corporation, partnership, association, company, business, trust, joint venture, or other legal entity.

"Vegetated wetlands" means lands lying between and contiguous to mean low water and an elevation above mean low water equal to the factor one and one-half times the mean tide range at the site of the proposed project in the county, city, or town in question, and upon which is growing any of the following species: saltmarsh cordgrass (*Spartina alterniflora*), saltmeadow hay (*Spartina patens*), saltgrass (*Distichlis spicata*), black needlerush (*Juncus roemerianus*), saltwort (*Salicornia* spp.), sea lavender (*Limonium* spp.), marsh elder (*Iva frutescens*), groundsel bush (*Baccharis halimifolia*), wax myrtle (*Myrica* sp.), sea oxeye (*Borrichia frutescens*), arrow arum (*Peltandra virginica*), pickerelweed (*Pontederia cordata*), big cordgrass (*Spartina cynosuroides*), rice cutgrass (*Leersia oryzoides*), wildrice (*Zizania aquatica*), bulrush (*Scirpus validus*), spikerush (*Eleocharis* sp.), sea rocket (*Cakile edentula*), southern wildrice (*Zizaniopsis miliacea*), cattail (*Typha* spp.), three-square (*Scirpus* spp.), buttonbush

1535 (Cephalanthus occidentalis), bald cypress (Taxodium distichum), black gum (Nyssa sylvatica), tupelo  
 1536 (Nyssa aquatica), dock (Rumex spp.), yellow pond lily (Nuphar sp.), marsh fleabane (Pluchea  
 1537 purpurascens), royal fern (Osmunda regalis), marsh hibiscus (Hibiscus moscheutos), beggar's tick (Bidens  
 1538 sp.), smartweed (Polygonum sp.), arrowhead (Sagittaria spp.), sweet flag (Acorus calamus), water hemp  
 1539 (Amaranthus cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

1540 "Vegetated wetlands of Back Bay and its tributaries" or "vegetated wetlands of the North Landing  
 1541 River and its tributaries" means all marshes subject to flooding by normal and wind tides but not  
 1542 hurricane or tropical storm tides, and upon which is growing any of the following species: saltmarsh  
 1543 cordgrass (Spartina alterniflora), saltmeadow hay (Spartina patens), black needlerush (Juncus  
 1544 roemerianus), marsh elder (Iva frutescens), groundsel bush (Baccharis halimifolia), wax myrtle (Myrica  
 1545 sp.), arrow arum (Peltandra virginica), pickerelweed (Pontederia cordata), big cordgrass (Spartina  
 1546 cynosuroides), rice cutgrass (Leersia oryzoides), wildrice (Zizania aquatica), bulrush (Scirpus validus),  
 1547 spikerush (Eleocharis sp.), cattail (Typha spp.), three-square (Scirpus spp.), dock (Rumex sp.),  
 1548 smartweed (Polygonum sp.), yellow pond lily (Nuphar sp.), royal fern (Osmunda regalis), marsh hibiscus  
 1549 (Hibiscus moscheutos), beggar's tick (Bidens sp.), arrowhead (Sagittaria sp.), water hemp (Amaranthus  
 1550 cannabinus), reed grass (Phragmites communis), or switch grass (Panicum virgatum).

1551 "Wetlands" means both vegetated and nonvegetated wetlands.

1552 "Wetlands board" or "board" means a board created pursuant to § 28.2-1303 of the Code of Virginia.

1553 § 3. The following uses of and activities in wetlands are authorized if otherwise permitted by law:

1554 1. The construction and maintenance of noncommercial catwalks, piers, boathouses, boat shelters,  
 1555 fences, duckblinds, wildlife management shelters, footbridges, observation decks and shelters and other  
 1556 similar structures, provided that such structures are so constructed on pilings as to permit the reasonably  
 1557 unobstructed flow of the tide and preserve the natural contour of the wetlands;

1558 2. The cultivation and harvesting of shellfish, and worms for bait;

1559 3. Noncommercial outdoor recreational activities, including hiking, boating, trapping, hunting, fishing,  
 1560 shellfishing, horseback riding, swimming, skeet and trap shooting, and shooting on shooting preserves,  
 1561 provided that no structure shall be constructed except as permitted in subdivision 1 of this section;

1562 4. Other outdoor recreational activities, provided they do not impair the natural functions or alter the  
 1563 natural contour of the wetlands;

1564 5. Grazing, haying, and cultivating and harvesting agricultural, forestry or horticultural products;

1565 6. Conservation, repletion and research activities of the Commission, the Virginia Institute of Marine  
 1566 Science, the Department of Game and Inland Fisheries Wildlife Resources and other conservation-related  
 1567 agencies;

1568 7. The construction or maintenance of aids to navigation which are authorized by governmental  
 1569 authority;

1570 8. Emergency measures decreed by any duly appointed health officer of a governmental subdivision  
 1571 acting to protect the public health;

1572 9. The normal maintenance and repair of, or addition to, presently existing roads, highways, railroad  
 1573 beds, or facilities abutting on or crossing wetlands, provided that no waterway is altered and no  
 1574 additional wetlands are covered;

1575 10. Governmental activity in wetlands owned or leased by the Commonwealth or a political  
 1576 subdivision thereof;

1577 11. The normal maintenance of man-made drainage ditches, provided that no additional wetlands are  
 1578 covered. This subdivision does not authorize the construction of any drainage ditch; and

1579 12. The construction of living shoreline projects authorized pursuant to a general permit developed  
 1580 under subsection B of § 28.2-104.1

1581 § 4. A. Any person who desires to use or develop any wetland within this..... (county, city, or  
 1582 town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall  
 1583 first file an application for a permit directly with the wetlands board or with the Commission.

1584 B. The permit application shall include the following: the name and address of the applicant; a  
 1585 detailed description of the proposed activities; a map, drawn to an appropriate and uniform scale,  
 1586 showing the area of wetlands directly affected, the location of the proposed work thereon, the area of  
 1587 existing and proposed fill and excavation, the location, width, depth and length of any proposed channel  
 1588 and disposal area, and the location of all existing and proposed structures, sewage collection and  
 1589 treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including  
 1590 those on adjacent uplands; a description of the type of equipment to be used and the means of  
 1591 equipment access to the activity site; the names and addresses of owners of record of adjacent land and  
 1592 known claimants of water rights in or adjacent to the wetland of whom the applicant has notice; an  
 1593 estimate of cost; the primary purpose of the project; any secondary purposes of the project, including  
 1594 further projects; the public benefit to be derived from the proposed project; a complete description of  
 1595 measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion  
 1596 date of the proposed work, project, or structure; and such additional materials and documentation as the

wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense involved.

§ 5. All applications, maps, and documents submitted shall be open for public inspection at the office designated by the applicable governing body and specified in the advertisement for public hearing required under § 6 of this ordinance.

§ 6. Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the wetlands in question, known claimants of water rights in or adjacent to the wetlands in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries Wildlife Resources, the Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The board shall mail these notices not less than 20 days prior to the date set for the hearing. The wetlands board shall also cause notice of the hearing to be published at least once a week for two weeks prior to such hearing in a newspaper of general circulation in this..... (county, city, or town). The published notice shall specify the place or places within this..... (county, city, or town) where copies of the application may be examined. The costs of publication shall be paid by the applicant.

§ 7. A. Approval of a permit application shall require the affirmative vote of three members of a five-member board or four members of a seven-member board.

B. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. Any person may testify at the public hearing. Each witness at the hearing may submit a concise written statement of his testimony. The board shall make a record of the proceeding, which shall include the application, any written statements of witnesses, a summary of statements of all witnesses, the findings and decision of the board, and the rationale for the decision.

C. The board shall make its determination within 30 days of the hearing. If the board fails to act within that time, the application shall be deemed approved. Within 48 hours of its determination, the board shall notify the applicant and the Commissioner of its determination. If the board fails to make a determination within the 30-day period, it shall promptly notify the applicant and the Commission that the application is deemed approved. For purposes of this section, "act" means taking a vote on the application. If the application receives less than four affirmative votes from a seven-member board or less than three affirmative votes from a five-member board, the permit shall be denied.

D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the board. The record shall be open for public inspection at the same office as was designated under § 5 of this ordinance.

§ 8. The board may require a reasonable bond or letter of credit in an amount and with surety and conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance, suspend or revoke a permit if the applicant has failed to comply with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work described in the application. The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

§ 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and prevent the despoliation and destruction of wetlands within its jurisdiction while accommodating necessary economic development in a manner consistent with wetlands preservation.

§ 10. A. In deciding whether to grant, grant in modified form or deny a permit, the board shall consider the following:

1. The testimony of any person in support of or in opposition to the permit application;
2. The impact of the proposed development on the public health, safety, and welfare; and
3. The proposed development's conformance with standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.

B. The board shall grant the permit if all of the following criteria are met:

1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public and private detriment.
2. The proposed development conforms with the standards prescribed in § 28.2-1308 of the Code of Virginia and guidelines promulgated pursuant to § 28.2-1301 of the Code of Virginia.
3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia.

C. If the board finds that any of the criteria listed in subsection B of this section are not met, the board shall deny the permit application but allow the applicant to resubmit the application in modified

1658 form.

1659 § 11. The permit shall be in writing, signed by the chairman of the board or his authorized  
1660 representative, and notarized. A copy of the permit shall be transmitted to the Commissioner.

1661 § 12. No permit shall be granted without an expiration date established by the board. Upon proper  
1662 application, the board may extend the permit expiration date.

1663 § 13. No permit granted by a wetlands board shall in any way affect the applicable zoning and land  
1664 use ordinances of this..... (county, city, or town) or the right of any person to seek compensation for  
1665 any injury in fact incurred by him because of the proposed activity.

1666 § 28.2-1403. **Certain counties, cities and towns authorized to adopt coastal primary sand dune**  
1667 **ordinance.**

1668 Any of the following counties, cities and towns which adopt a wetlands zoning ordinance pursuant to  
1669 § 28.2-1302 may adopt the coastal primary sand dune zoning ordinance which is set out in this section:  
1670 the Counties of Accomack, Arlington, Caroline, Charles City, Chesterfield, Essex, Fairfax, Gloucester,  
1671 Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster,  
1672 Mathews, Middlesex, New Kent, Northampton, Northumberland, Prince George, Prince William,  
1673 Richmond, Spotsylvania, Stafford, Surry, Westmoreland, and York; and the Cities of Alexandria,  
1674 Chesapeake, Colonial Heights, Fairfax, Falls Church, Fredericksburg, Hampton, Hopewell, Newport  
1675 News, Norfolk, Petersburg, Poquoson, Portsmouth, Richmond, Suffolk, Virginia Beach and  
1676 Williamsburg; and the Town of Cape Charles. In the event that a locality has not adopted a wetlands  
1677 zoning ordinance pursuant to Chapter 13 (§ 28.2-1300 et seq.) or repeals it if already adopted, such  
1678 locality may adopt or continue to administer the ordinance contained herein provided the locality  
1679 appoints a wetlands board following the procedure specified in § 28.2-1303. Any county or city which  
1680 has adopted the Coastal Primary Sand Dune Zoning Ordinance prior to October 1, 1992, shall amend the  
1681 ordinance to conform it to the ordinance contained herein by October 1, 1992. The following ordinance  
1682 is the only coastal primary sand dune zoning ordinance under which any board shall operate after  
1683 October 1, 1992.

1684 Coastal Primary Sand Dune Zoning Ordinance

1685 § 1. The governing body of \_\_\_\_\_, acting pursuant to Chapter 14 (§ 28.2-1400 et  
1686 seq.) of Title 28.2 of the Code of Virginia, adopts this ordinance regulating the use and development of  
1687 coastal primary sand dunes. Whenever coastal primary sand dunes are referred to in this ordinance, such  
1688 references shall also include beaches.

1689 § 2. As used in this ordinance, unless the context requires a different meaning:

1690 "Beach" means the shoreline zone comprised of unconsolidated sandy material upon which there is a  
1691 mutual interaction of the forces of erosion, sediment transport and deposition that extends from the low  
1692 water line landward to where there is a marked change in either material composition or physiographic  
1693 form such as a dune, bluff, or marsh, or where no such change can be identified, to the line of woody  
1694 vegetation (usually the effective limit of stormwaves), or the nearest impermeable man-made structure,  
1695 such as a bulkhead, revetment, or paved road.

1696 "Coastal primary sand dune" or "dune" means a mound of unconsolidated sandy soil which is  
1697 contiguous to mean high water, whose landward and lateral limits are marked by a change in grade from  
1698 ten percent or greater to less than ten percent, and upon which is growing any of the following species:  
1699 American beach grass (*Ammophila breviligulata*); beach heather (*Hudsonia tomentosa*); dune bean  
1700 (*Strophostyles* spp.); dusty miller (*Artemisia stelleriana*); saltmeadow hay (*Spartina patens*); seabeach  
1701 sandwort (*Honckenya peploides*); sea oats (*Uniola paniculata*); sea rocket (*Cakile edentula*); seaside  
1702 goldenrod (*Solidago sempervirens*); Japanese sedge or Asiatic sand sedge (*Carex kobomugi*); Virginia  
1703 pine (*Pinus virginiana*); broom sedge (*Andropogon virginicus*); and short dune grass (*Panicum amarum*).  
1704 For purposes of this ordinance, "coastal primary sand dune" shall not include any mound of sand, sandy  
1705 soil, or dredge spoil deposited by any person for the purpose of temporary storage, beach replenishment  
1706 or beach nourishment, nor shall the slopes of any such mound be used to determine the landward or  
1707 lateral limits of a coastal primary sand dune.

1708 "Commission" means the Virginia Marine Resources Commission.

1709 "Commissioner" means the Commissioner of Marine Resources.

1710 "County, city and town" means the governing body of the county, city and town.

1711 "Governmental activity" means any of the services provided by the Commonwealth or a county, city  
1712 or town to its citizens for the purpose of maintaining public facilities, including but not limited to, such  
1713 services as constructing, repairing, and maintaining roads; providing street lights and sewage facilities;  
1714 supplying and treating water; and constructing public buildings.

1715 "Wetlands board" or "board" means the board created pursuant to § 28.2-1303 of the Code of  
1716 Virginia.

1717 § 3. The following uses of and activities in dunes are authorized if otherwise permitted by law:

1718 1. The construction and maintenance of noncommercial walkways which do not alter the contour of  
1719 the coastal primary sand dune;

2. The construction and maintenance of observation platforms which are not an integral part of any dwelling and which do not alter the contour of the coastal primary sand dune;

3. The planting of beach grasses or other vegetation for the purpose of stabilizing coastal primary sand dunes;

4. The placement of sand fences or other material on or adjacent to coastal primary sand dunes for the purpose of stabilizing such features, except that this provision shall not be interpreted to authorize the placement of any material which presents a public health or safety hazard;

5. Sand replenishment activities of any private or public concern, provided no sand shall be removed from any coastal primary sand dune unless authorized by lawful permit;

6. The normal maintenance of any groin, jetty, riprap, bulkhead, or other structure designed to control beach erosion which may abut a coastal primary sand dune;

7. The normal maintenance or repair of existing roads, highways, railroad beds, and facilities of the United States, this Commonwealth or any of its counties or cities, or of any person, provided no coastal primary sand dunes are altered;

8. Outdoor recreational activities, provided the activities do not alter the natural contour of the coastal primary sand dune or destroy the vegetation growing thereon;

9. The conservation and research activities of the Commission, Virginia Institute of Marine Science, Department of Game and Inland Fisheries Wildlife Resources, and other conservation-related agencies;

10. The construction and maintenance of aids to navigation which are authorized by governmental authority;

11. Activities pursuant to any emergency declaration by the governing body of any local government or the Governor of the Commonwealth or any public health officer for the purposes of protecting the public health and safety;

12. Governmental activity in coastal primary sand dunes owned or leased by the Commonwealth or a political subdivision thereof; and

13. The construction of living shoreline projects authorized pursuant to a general permit developed under subsection B of § 28.2-104.1.

§ 4. A. Any person who desires to use or alter any coastal primary sand dune within this \_\_\_\_\_ (county, city or town), other than for the purpose of conducting the activities specified in § 3 of this ordinance, shall first file an application directly with the wetlands board or with the Commission.

B. The permit application shall include the following: the name and address of the applicant; a detailed description of the proposed activities and a map, drawn to an appropriate and uniform scale, showing the area of dunes directly affected, the location of the proposed work thereon, the area of any proposed fill and excavation, the location, width, depth and length of any disposal area, and the location of all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways, and other related appurtenances or facilities, including those on adjacent uplands; a description of the type of equipment to be used and the means of equipment access to the activity site; the names and addresses of owners of record of adjacent land; an estimate of cost; the primary purpose of the project; any secondary purposes of the project, including further projects; the public benefit to be derived from the proposed project; a complete description of measures to be taken during and after the alteration to reduce detrimental offsite effects; the completion date of the proposed work, project, or structure; and such additional materials and documentation as the wetlands board may require.

C. A nonrefundable processing fee shall accompany each permit application. The fee shall be set by the applicable governing body with due regard for the services to be rendered, including the time, skill, and administrator's expense. No person shall be required to file two separate applications for permits if the proposed project will require permits under this ordinance and Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 of the Code of Virginia. Under those circumstances, the fee shall be established pursuant to this ordinance.

§ 5. All applications, maps, and documents submitted shall be open for public inspection at the office of the recording officer of this \_\_\_\_\_ (county, city or town).

§ 6. Not later than 60 days after receipt of a complete application, the wetlands board shall hold a public hearing on the application. The applicant, local governing body, Commissioner, owner of record of any land adjacent to the coastal primary sand dunes in question, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries Wildlife Resources, the State Water Control Board, the Department of Transportation, and any governmental agency expressing an interest in the application shall be notified of the hearing. The board shall mail these notices not less than 20 days prior to the date set for the hearing. The wetlands board shall also cause notice of the hearing to be published at least once a week for two weeks prior to such hearing in a newspaper of general circulation in this \_\_\_\_\_ (county, city or town). The costs of publication shall be paid by the applicant.

1781 § 7. A. Approval of a permit application shall require the affirmative vote of three members of a  
1782 five-member board or four members of a seven-member board.

1783 B. The chairman of the board, or in his absence the acting chairman, may administer oaths and  
1784 compel the attendance of witnesses. Any person may appear and be heard at the public hearing. Each  
1785 witness at the hearing may submit a concise written statement of his testimony. The board shall make a  
1786 record of the proceeding, which shall include the application, any written statements of witnesses, a  
1787 summary of statements of all witnesses, the findings and decision of the board, and the rationale for the  
1788 decision.

1789 C. The board shall make its determination within 30 days of the hearing. If the board fails to act  
1790 within that time, the application shall be deemed approved. Within 48 hours of its determination, the  
1791 board shall notify the applicant and the Commissioner of its determination. If the board fails to make a  
1792 determination within the 30-day period, it shall promptly notify the applicant and the Commission that  
1793 the application is deemed approved.

1794 D. If the board's decision is reviewed or appealed, the board shall transmit the record of its hearing  
1795 to the Commissioner. Upon a final determination by the Commission, the record shall be returned to the  
1796 board. The record shall be open for public inspection at the office of the recording officer of this  
1797 \_\_\_\_\_ (county, city or town).

1798 § 8. The board may require a reasonable bond or letter of credit in an amount and with surety and  
1799 conditions satisfactory to it, securing to the Commonwealth compliance with the conditions and  
1800 limitations set forth in the permit. The board may, after a hearing held pursuant to this ordinance,  
1801 suspend or revoke a permit if the applicant has failed to comply with any of the conditions or  
1802 limitations set forth in the permit or has exceeded the scope of the work described in the application.  
1803 The board may, after a hearing, suspend a permit if the applicant fails to comply with the terms and  
1804 conditions set forth in the application.

1805 § 9. In fulfilling its responsibilities under this ordinance, the board shall preserve and protect coastal  
1806 primary sand dunes and beaches and prevent their despoliation and destruction. However, whenever  
1807 practical, the board shall accommodate necessary economic development in a manner consistent with the  
1808 protection of these features.

1809 § 10. A. In deciding whether to grant, grant in modified form, or deny a permit, the board shall  
1810 consider the following:

- 1811 1. The testimony of any person in support of or in opposition to the permit application;  
1812 2. The impact of the proposed development on the public health, safety, and welfare; and  
1813 3. The proposed development's conformance with standards prescribed in § 28.2-1408 of the Code of  
1814 Virginia and guidelines promulgated pursuant to § 28.2-1401 of the Code of Virginia.

1815 B. The board shall grant the permit if all of the following criteria are met:

- 1816 1. The anticipated public and private benefit of the proposed activity exceeds its anticipated public  
1817 and private detriment.

- 1818 2. The proposed development conforms with the standards prescribed in § 28.2-1408 of the Code of  
1819 Virginia and guidelines promulgated pursuant to § 28.2-1401 of the Code of Virginia.

- 1820 3. The proposed activity does not violate the purposes and intent of this ordinance or Chapter 14  
1821 (§ 28.2-1400 et seq.) of Title 28.2 of the Code of Virginia.

1822 C. If the board finds that any of the criteria listed in subsection B of this section are not met, the  
1823 board shall deny the permit application but allow the applicant to resubmit the application in modified  
1824 form.

1825 § 11. The permit shall be in writing, signed by the chairman of the board, and notarized. A copy of  
1826 the permit shall be transmitted to the Commissioner.

1827 § 12. No permit shall be granted without an expiration date established by the board. Upon proper  
1828 application, the board may extend the permit expiration date.

1829 § 13. No permit granted by a wetlands board shall in any way affect the right of any person to seek  
1830 compensation for any injury in fact incurred by him because of the permitted activity.

1831 **§ 28.2-1505. Virginia Coastal Land Management Advisory Council established.**

1832 A. There is hereby created the Virginia Coastal Land Management Advisory Council. The Council  
1833 shall advise the Commission on issues relating to the management of ungranted shores of the sea, marsh  
1834 and meadowlands, and shall advise the Commission on the development of the management plan  
1835 prepared pursuant to § 28.2-1504.

1836 B. The Council shall consist of six members appointed by the Governor, who shall be residents of a  
1837 county in which there are ungranted shores of the sea, marsh or meadowlands, and who shall represent  
1838 tourism and commerce, traditional uses of shores of the sea, marsh and meadowlands, and conservation  
1839 interests; however, if any private person or entity owns more than fifty percent of the land area of the  
1840 barrier islands of the Eastern Shore that are privately owned, such person or entity shall be one of such  
1841 members. In appointing these members, the Governor shall consider recommendations submitted by the  
1842 boards of supervisors of counties in which the Commission is managing the largest portions of the

1843 ungranted shores of the sea, marsh or meadowlands. The Council shall also include (i) the Director of  
 1844 the Department of Conservation and Recreation or his designee, (ii) the Director of the Department of  
 1845 ~~Game and Inland Fisheries Wildlife Resources~~ or his designee, and (iii) the Commissioner or his  
 1846 designee.

1847 C. The term of office of each appointed member shall be for three years. Appointments to fill  
 1848 vacancies shall be made to fill the unexpired term.

1849 D. Members shall receive no compensation for their services but shall receive reimbursement for  
 1850 actual expenses.

1851 E. The Council shall meet at the call of the Commissioner or at least once per year.

1852 **§ 29.1-100. Definitions.**

1853 As used in and for the purposes of this title only, or in any of the regulations of the Board, unless  
 1854 the context clearly requires a different meaning:

1855 "Bag or creel limit" means the quantity of game, fish or fur-bearing animals that may be taken,  
 1856 caught, or possessed during a period fixed by the Board.

1857 "Board" means the Board of ~~Game and Inland Fisheries Wildlife Resources~~.

1858 "Closed season" means that period of time fixed by the Board during which wild animals, birds or  
 1859 fish may not be taken, captured, killed, pursued, hunted, trapped or possessed.

1860 "Conservation police officers" means supervising officers, and regular and special conservation police  
 1861 officers.

1862 "Department" means the Department of ~~Game and Inland Fisheries Wildlife Resources~~.

1863 "Director" means the Director of the Department of ~~Game and Inland Fisheries Wildlife Resources~~.

1864 "Firearm" means any weapon that will or is designed to or may readily be converted to expel single  
 1865 or multiple projectiles by the action of an explosion of a combustible material.

1866 "Fishing" means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon  
 1867 the inland waters of this Commonwealth.

1868 "Fur-bearing animals" includes beaver, bobcat, fisher, fox, mink, muskrat, opossum, otter, raccoon,  
 1869 skunk, and weasel.

1870 "Game" means wild animals and wild birds that are commonly hunted for sport or food.

1871 "Game animals" means deer (including all Cervidae), bear, rabbit, fox, squirrel, bobcat and raccoon.

1872 "Game fish" means trout (including all Salmonidae), all of the sunfish family (including largemouth  
 1873 bass, smallmouth bass and spotted bass, rock bass, bream, bluegill and crappie), walleye or pike perch,  
 1874 white bass, chain pickerel or jackfish, muskellunge, and northern pike, wherever such fish are found in  
 1875 the waters of this Commonwealth and rockfish or striped bass where found above tidewaters or in  
 1876 streams which are blocked from access from tidewaters by dams.

1877 "Hunting and trapping" includes the act of or the attempted act of taking, hunting, trapping, pursuing,  
 1878 chasing, shooting, snaring or netting birds or animals, and assisting any person who is hunting, trapping  
 1879 or attempting to do so regardless of whether birds or animals are actually taken; however, when hunting  
 1880 and trapping are allowed, reference is made to such acts as being conducted by lawful means and in a  
 1881 lawful manner. The Board of ~~Game and Inland Fisheries Wildlife Resources~~ may authorize by regulation  
 1882 the pursuing or chasing of wild birds or wild animals during any closed hunting season where persons  
 1883 have no intent to take such birds or animals.

1884 "Lawful," "by law," or "law" means the statutes of this Commonwealth or regulations adopted by the  
 1885 Board which the Director is empowered to enforce.

1886 "Migratory game birds" means doves, ducks, brant, geese, swan, coot, gallinules, sora and other rails,  
 1887 snipe, woodcock and other species of birds on which open hunting seasons are set by federal  
 1888 regulations.

1889 "Muzzleloader" means any firearm described in subdivision 3 of the definition of antique firearm in  
 1890 § 18.2-308.2:2.

1891 "Muzzleloading pistol" means a muzzleloader originally designed, made or intended to fire a  
 1892 projectile (bullet) from one or more barrels when held in one hand and that is loaded from the muzzle  
 1893 or forward end of the cylinder.

1894 "Muzzleloading rifle" means a muzzleloader firing a single projectile that is loaded along with the  
 1895 propellant from the muzzle of the gun.

1896 "Muzzleloading shotgun" means a muzzleloader with a smooth bore firing multiple projectiles that  
 1897 are loaded along with the propellant from the muzzle of the gun.

1898 "Nonmigratory game birds" means grouse, bobwhite quail, turkey and all species of birds introduced  
 1899 into the Commonwealth by the Board.

1900 "Nuisance species" means blackbirds, coyotes, crows, cowbirds, feral swine, grackles, English  
 1901 sparrows, starlings, or those species designated as such by regulations of the Board, and those species  
 1902 found committing or about to commit depredation upon ornamental or shade trees, agricultural crops,  
 1903 wildlife, livestock or other property or when concentrated in numbers and manners as to constitute a

health hazard or other nuisance. However, the term nuisance does not include (i) animals designated as endangered or threatened pursuant to §§ 29.1-563, 29.1-564, and 29.1-566, (ii) animals classified as game or fur-bearing animals, and (iii) those species protected by state or federal law.

"Open season" means that period of time fixed by the Board during which wild animals, wild birds and fish may be taken, captured, killed, pursued, trapped or possessed.

"Pistol" means a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having one or more chambers as an integral part of or permanently aligned with the bore and a short stock at an angle to and extending below the line of the bore that is designed to be gripped by one hand.

"Possession" means the exercise of control of any wild animal, wild bird, fish or fur-bearing animal, or any part of the carcass thereof.

"Properly licensed person" means a person who, while engaged in hunting, fishing or trapping, or in any other activity permitted under this title, in and upon the lands and inland waters of this Commonwealth, has upon his person all the licenses, permits and stamps required by law.

"Regulation" means a regulation duly adopted by the Board pursuant to the authority vested by the provisions of this title.

"Revolver" means a projectile weapon of the pistol type, having a breechloading chambered cylinder arranged so that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

"Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ball shot or a single projectile for each single pull of the trigger.

"Transportation" means the transportation, either upon the person or by any other means, of any wild animal or wild bird or fish.

"Wildlife" means all species of wild animals, wild birds and freshwater fish in the public waters of this Commonwealth.

**§ 29.1-100.1. Department of Game and Inland Fisheries continued as Department of Wildlife Resources.**

*The Department of Wildlife Resources, formerly known as the Department of Game and Inland Fisheries, is continued, and wherever "Department of Game and Inland Fisheries" is used in this Code, it shall mean the Department of Wildlife Resources. The Board of Wildlife Resources, formerly known as the Board of Game and Inland Fisheries, is continued, and wherever "Board of Game and Inland Fisheries" is used in this Code, it shall mean the Board of Wildlife Resources.*

**§ 29.1-101.1. Lifetime Hunting and Fishing Endowment Fund.**

There is hereby established in the state treasury a special fund to be designated the "Lifetime Hunting and Fishing Endowment Fund." This fund shall consist of proceeds from the sale of lifetime hunting and fishing licenses as provided in § 29.1-302.1 and any gifts, grants and contributions which are specifically designated for inclusion in the Fund.

The income and principal of this Fund shall be used only for the purposes of administering the lifetime hunting and fishing license program and supporting the wildlife conservation programs of the Department of Game and Inland Fisheries.

The Board shall serve as trustee of the Fund and these funds shall be withdrawn and expended for the purposes stated in this section by order of the Board. The State Treasurer shall be custodian of the funds. No part of such Fund, either principal or interest earned thereon, shall revert to the general fund of the state treasury.

**§ 29.1-102. Board of Wildlife Resources; how constituted; meetings.**

The Commission of Game and Inland Fisheries is continued and shall hereafter be known as the Board of Game and Inland Fisheries Wildlife Resources (*the Board*).

A. The Board shall consist of 11 members. Each member of the Board shall be appointed by the Governor, subject to confirmation by the General Assembly. The members appointed shall be citizens of the Commonwealth and shall be knowledgeable about wildlife conservation, hunting, fishing, boating, agriculture, forestry, or habitat. Each Department region, as constituted on July 1, 2014, shall be represented by two members, and three members shall be members-at-large, each representing a different Department region. Members shall be appointed for terms of one to four years; however, appointments shall be made in a manner whereby no more than three members shall have terms which expire in the same year. An appointment to fill a vacancy shall be made in the same manner, but only for the unexpired term. No person shall be eligible to serve more than two consecutive four-year terms. Members may be removed from office during their respective terms by the Governor.



B. The Board shall adopt rules and procedures for the conduct of its business that shall be set forth in a Governance Manual. The Board may establish committees to assist it with its duties and responsibilities. All decisions by a committee shall be reviewed by the Board, and shall only take effect if approved by the Board.

C. The Board shall elect one of its members as its chairman whose duties shall be limited to (i) presiding at all regular and called meetings of the Board; (ii) serving as the Board liaison to the Director, other Board members, and the Secretary of Natural Resources; and (iii) the other duties set forth in the Governance Manual as approved by a majority of the Board. The Board shall also elect a vice-chairman to preside in the absence of the chairman. Any additional duties of the vice-chairman shall be set forth in the Governance Manual. The Board shall annually elect one of its members as chairman and one of its members as vice-chairman. At such annual election, the chairman and vice-chairman shall not be eligible to be re-elected to their respective positions and no person shall serve more than one year as chairman and one year as vice-chairman during a four-year term.

D. The Board shall meet at least once every quarter of the calendar year for the transaction of business, and other meetings may be called if necessary by the chairman or at the request of any three members. The majority of the members shall constitute a quorum. Meetings shall be held in Richmond or at such other places within the Commonwealth as may be necessary.

**§ 29.1-109. Department of Wildlife Resources; Director.**

A. The Department of ~~Game and Inland Fisheries~~ shall exist to provide public, informational and educational services related to this title, and to serve as the agency responsible for the administration and enforcement of all rules and regulations of the Board, the statutory provisions of this title, and related legislative acts. The Department shall employ scientific principles and procedures, as developed, researched, recognized and accepted within the bounds of comprehensive professional wildlife resource management, in the management of the Commonwealth's wildlife and natural resources.

B. The Board shall appoint a Director, subject to confirmation and reconfirmation every four years by the General Assembly, to head the Department and to act as principal administrative officer. In addition to the powers designated elsewhere in this title, the Director shall have the power to:

1. Enforce or cause to be enforced all laws for the protection, propagation and preservation of game birds and game animals of the Commonwealth and all fish in the inland waters thereof. Inland waters shall include all waters above tidewater and the brackish and freshwater streams, creeks, bays, including Back Bay, inlets, and ponds in the tidewater counties and cities. In waters of the Albemarle and Currituck watersheds, the management of the recreational and commercial harvest of blue crabs shall rest with the Marine Resources Commission.

2. Initiate prosecution of all persons who violate such laws, and seize and confiscate wild birds, wild animals and fish that have been illegally killed, caught, transported or shipped.

3. Enter into reciprocal or mutual aid agreements with other states pertaining to the enforcement of laws set forth in Chapters 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 6 (§ 29.1-600 et seq.) across state boundaries.

4. Employ persons necessary for the administrative requirements of the Board and to designate the official position and duties of each. The salaries of all such employees shall be as provided in accordance with law.

5. Perform such acts as may be necessary to the conduct and establishment of cooperative fish and wildlife projects with the federal government as prescribed by acts of Congress and in compliance with rules and regulations promulgated by the Secretary of the Interior.

6. Make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers, including, but not limited to, contracts with the United States, other state agencies and governmental subdivisions of the Commonwealth.

7. When practicable, consult with, and keep informed, wildlife and boating constituent organizations so as to benefit Virginia's wildlife and natural resources and accomplish the Department's mission.

**§ 29.1-114. Hunting from aircraft feral hogs.**

Notwithstanding § 5.1-17, employees of the Department of ~~Game and Inland Fisheries~~ and employees of federal agencies whose responsibilities include fisheries and wildlife management, in the performance of such employees' official duties, may hunt or kill feral hogs in False Cape State Park and Back Bay National Wildlife Refuge from aircraft, with the permission of the landowner. However, no such activity shall occur during waterfowl season.

**§ 29.1-300.1. Certification of competence in hunter education; incentives.**

A. Except as provided in subsection B and §§ 29.1-300.4 and 29.1-305.2, no hunting license shall be issued to (i) a person who has never obtained a license to hunt in any state or country, or (ii) a person who is under the age of 16, unless such a person presents to the Board of ~~Game and Inland Fisheries~~ or one of its authorized license vendors, a certificate of completion in hunter education issued or authorized by the Board under the hunter education program, or proof that he holds the equivalent certificate

2027 obtained from an authorized agency or association of another state or country.

2028 B. Although a resident under the age of 12 is not required to obtain a license to hunt, any person  
2029 under the age of 12, or an individual on his behalf, may purchase a Virginia hunting license or a junior  
2030 lifetime hunting license pursuant to § 29.1-302.1, without completing a hunter education program as  
2031 required in subsection A, provided that no person under the age of 12 shall hunt unless accompanied  
2032 and directly supervised by an adult who has, on his person, a valid Virginia hunting license. The junior  
2033 lifetime hunting license issued to an individual under the age of 12 shall become invalid on the  
2034 individual's twelfth birthday and remain invalid until certification of competence in hunter education is  
2035 shown as provided in this section. A lifetime license, indicating the completion of hunter education or  
2036 an equivalent certificate, shall be reissued at no cost when such proof is provided.

2037 The adult shall be responsible for such supervision. For the purposes of this section, "adult" means  
2038 the parent or legal guardian of the person under age 12, or such person over the age of 18 designated  
2039 by the parent or legal guardian.

2040 "Accompanied and directly supervised" means that the adult is within sight of the person under the  
2041 age of 12.

2042 C. This section shall not apply to persons while on horseback hunting foxes with hounds but without  
2043 firearms.

2044 D. The Board may adopt regulations that provide incentives for successful completion of a hunter  
2045 education course to hunters who are not required by law to complete such a course. The regulations may  
2046 include such incentives as the Board deems appropriate.

2047 **§ 29.1-302.1. Special lifetime hunting and fishing licenses for residents and nonresidents.**

2048 A. Any resident or nonresident individual may apply for and receive from the Department, after  
2049 payment of the appropriate fee, any of the following lifetime licenses which shall be valid for the life of  
2050 the individual, nontransferable, and permit the person to engage in the licensed activity on any property  
2051 in the Commonwealth according to restrictions and regulations of law:

2052 1. A basic resident lifetime hunting license, to be obtained for a fee of \$250. This license is valid for  
2053 the lifetime of the license holder even if the license holder becomes a nonresident of the Commonwealth  
2054 subsequent to the purchase of the license.

2055 2. A basic resident lifetime fishing license, to be obtained for a fee of \$250. This license is valid for  
2056 the lifetime of the license holder even if the license holder becomes a nonresident of the Commonwealth  
2057 subsequent to the purchase of the license.

2058 3. A basic nonresident lifetime hunting license, to be obtained for a fee of \$500.

2059 4. A basic nonresident lifetime fishing license, to be obtained for a fee of \$500.

2060 5. A junior resident lifetime hunting license that is valid until an individual's twelfth birthday, and  
2061 which is transferable to a resident lifetime hunting license for no additional fee upon proof of  
2062 completion of a hunter education course or equivalent, may be obtained for a fee of \$250.

2063 6. A junior nonresident lifetime hunting license that is valid until an individual's twelfth birthday,  
2064 and which is transferable to a nonresident lifetime hunting license for no additional fee upon proof of  
2065 completion of a hunter education course or equivalent, may be obtained for a fee of \$500.

2066 7. An infant resident lifetime hunting license, to be obtained for a fee of \$125. This license shall be  
2067 issued only to an individual who is younger than two years of age and shall be valid to be used as  
2068 prescribed under subsection D1 of § 29.1-301 until an individual's twelfth birthday. Upon proof of  
2069 completion of a hunter education course or equivalent, this license shall be transferable to a resident  
2070 lifetime hunting license for no additional fee. This license shall remain valid even if the license holder  
2071 becomes a nonresident of the Commonwealth subsequent to the purchase of the license.

2072 8. An infant nonresident lifetime hunting license, to be obtained for a fee of \$250. This license shall  
2073 be issued only to an individual who is younger than two years of age and shall be valid to be used as  
2074 prescribed under subsection D1 of § 29.1-301 until an individual's twelfth birthday. Upon proof of  
2075 completion of a hunter education course or equivalent, this license shall be transferable to a nonresident  
2076 lifetime hunting license for no additional fee. This license shall remain valid even if the license holder  
2077 becomes a resident of the Commonwealth subsequent to the purchase of the license.

2078 9. An infant resident lifetime fishing license, to be obtained for a fee of \$125. This license shall be  
2079 issued only to an individual who is younger than two years of age. This license is valid for the lifetime  
2080 of the license holder even if the license holder becomes a nonresident of the Commonwealth subsequent  
2081 to the purchase of the license.

2082 10. An infant nonresident lifetime fishing license, to be obtained for a fee of \$250. This license shall  
2083 be issued only to an individual who is younger than two years of age. This license is valid for the  
2084 lifetime of the license holder even if the license holder becomes a resident of the Commonwealth  
2085 subsequent to the purchase of the license.

2086 Such basic lifetime hunting licenses shall serve in lieu of the state resident hunting license as  
2087 provided for in subdivision 2 of § 29.1-303, or state nonresident hunting license as provided for in  
2088 subdivision 3 of § 29.1-303. Such basic lifetime fishing licenses shall serve in lieu of the state resident

fishing license as provided for in subdivision A 2 of § 29.1-310 or state nonresident fishing license as provided for in subdivision A 3 of § 29.1-310.

B. Applications for all lifetime hunting and fishing licenses authorized by this section shall be made to the Department. The form and issuance of such a license shall conform to the provisions of this chapter for all licenses.

Except as otherwise specifically provided by law, all money credited to, held by, or to be received by the Department from the sale of licenses authorized by this section shall be consolidated and placed in the Lifetime Hunting and Fishing Endowment Fund established in § 29.1-101.1.

C. Any resident who is permanently disabled, as defined in § 58.1-3217, who applies for either of the resident lifetime licenses authorized by this section shall receive such a license for a fee of \$5. The applicant shall provide proof of permanent disability acceptable to the Director of the Department of Game and Inland Fisheries.

D. Any resident 45 years of age or older who applies for either of the resident lifetime licenses authorized by this section shall receive such a license for one of the following fees based on age: age 45 through 50, \$200; age 51 through 55, \$150; age 56 through 60, \$100; age 61 through 64, \$50; and age 65 or older, \$10.

E. The Board may subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

**§ 29.1-302.2. Special lifetime fishing license; permanently disabled persons.**

Any resident who is permanently disabled, as defined in § 58.1-3217, who applies for a special lifetime state resident fishing license shall receive such a license for a fee of five dollars or as subsequently revised by the Board pursuant to § 29.1-103. The applicant shall provide proof of permanent disability acceptable to the Director of the Department of Game and Inland Fisheries.

**§ 29.1-309.1. Special lifetime trapping license; permanently disabled persons and disabled veterans.**

Any resident who is (i) a veteran with a permanent and total service-connected disability as certified by the U.S. Department of Veterans Affairs or (ii) permanently disabled, as defined in § 58.1-3217, may apply for and receive from the Department of Game and Inland Fisheries, for a fee of five dollars or as subsequently revised by the Board pursuant to § 29.1-103, a special lifetime disabled trapping license. Such a person shall provide proof of his disability acceptable to the Director.

**§ 29.1-358. Localities to report claims and reimbursements.**

Any locality establishing a damage stamp program pursuant to the provisions of this article, including those localities previously authorized to adopt such an ordinance prior to July 1, 1981, shall ensure that annual reports of all damage claims made and the amount of reimbursement therefor are made to the Department of Game and Inland Fisheries.

**§ 29.1-505.1. Conspiracy; penalty.**

If any person conspires with another to commit any offense defined in this title or any of the regulations of the Board of Game and Inland Fisheries, and one or more such persons does any act to effect the object of the conspiracy, he shall be guilty of conspiracy to commit the underlying offense and shall be subject to the same punishment prescribed for the offense the commission of which was the object of the conspiracy.

**§ 29.1-529. Killing of deer, elk or bear damaging fruit trees, crops, livestock, or personal property; wildlife creating a hazard to aircraft or motor vehicles.**

A. Whenever deer, elk or bear are damaging fruit trees, crops, livestock or personal property utilized for commercial agricultural production in the Commonwealth, the owner or lessee of the lands on which such damage is done shall immediately report the damage to the Director or his designee for investigation. If after investigation the Director or his designee finds that deer or bear are responsible for the damage, he shall authorize in writing the owner, lessee or any other person designated by the Director or his designee to kill such deer or bear when they are found upon the land upon which the damages occurred. However, the Director or his designee shall have the option of authorizing nonlethal control measures rather than authorizing the killing of elk or bear, provided that such measures occur within a reasonable period of time; and whenever deer cause damage on parcels of land of five acres or less, except when such acreage is used for commercial agricultural production, the Director or his designee shall have discretion as to whether to issue a written authorization to kill the deer. The Director or his designee may limit such authorization by specifying in writing the number of animals to be killed and duration for which the authorization is effective and may in proximity to residential areas and under other appropriate circumstances limit or prohibit the authorization between 11:00 p.m. and one-half hour before sunrise of the following day. The Director or his designees issuing these authorizations shall specify in writing that only antlerless deer shall be killed, unless the Director or his designee determines that there is clear and convincing evidence that the damage was done by deer with antlers. Any owner or lessee of land who has been issued a written authorization shall not be issued an

2150 authorization in subsequent years unless he can demonstrate to the satisfaction of the Director or his  
2151 designee that during the period following the prior authorization, the owner or his designee has hunted  
2152 bear or deer on the land for which he received a previous authorization.

2153 B. Subject to the provisions of subsection A, the Director or his designee may issue a written  
2154 authorization to kill deer causing damage to residential plants, whether ornamental, noncommercial  
2155 agricultural, or other types of residential plants. The Director may charge a fee not to exceed actual  
2156 costs. The holder of this written authorization shall be subject to local ordinances, including those  
2157 regulating the discharge of firearms.

2158 C. Whenever wildlife is creating a hazard to the operation of any aircraft or to the facilities  
2159 connected with the operation of aircraft, the person or persons responsible for the safe operation of the  
2160 aircraft or facilities shall report such fact to the Director or his designee for investigation. If after  
2161 investigation the Director or his designee finds that wildlife is creating a hazard, he shall authorize such  
2162 person or persons or their representatives to kill wildlife when the wildlife is found to be creating such a  
2163 hazard. As used in this subsection, the term "wildlife" shall not include any federally protected species.

2164 D. Whenever deer are creating a hazard to the operation of motor vehicle traffic within the corporate  
2165 limits of any city or town, the operator of a motor vehicle or chief law-enforcement officer of the city  
2166 or town may report such fact to the Director or his designee for investigation. If after investigation the  
2167 Director or his designee finds that deer are creating a hazard within such city or town, he may authorize  
2168 responsible persons, or their representatives, to kill the deer when they are found to be creating such a  
2169 hazard.

2170 E. Whenever deer are damaging property in a locality in which deer herd population reduction has  
2171 been recommended in the current Deer Management Plan adopted by the Board, the owner or lessee of  
2172 the lands on which such damage is being done may report such damage to the Director or his designee  
2173 for investigation. If after investigation the Director or his designee finds that deer are responsible for the  
2174 damage, he may authorize in writing the owner, lessee or any other person designated by the Director or  
2175 his designee to kill such deer when they are found upon the land upon which the damages occurred.  
2176 The Director or his designee also may limit such authorization by specifying in writing the number of  
2177 animals to be killed and the period of time for which the authorization is effective. The requirement in  
2178 subsection A of this section, that an owner or lessee of land demonstrate that during the period  
2179 following the prior authorization deer or bear have been hunted on his land, shall not apply to any  
2180 locality that conducts a deer population control program authorized by the Department.

2181 F. The Director or his designee may revoke or refuse to reissue any authorization granted under this  
2182 section when it has been shown by a preponderance of the evidence that an abuse of the authorization  
2183 has occurred. Such evidence may include a complaint filed by any person with the Department alleging  
2184 that an abuse of the written authorization has occurred. Any person aggrieved by the issuance, denial or  
2185 revocation of a written authorization can appeal the decision to the Department of Game and Inland  
2186 Fisheries. Any person convicted of violating any provision of the hunting and trapping laws and  
2187 regulations shall be entitled to receive written authorization to kill deer or bear. However, such person  
2188 shall not (i) be designated as a shooter nor (ii) carry out the authorized activity for a person who has  
2189 received such written authorization for a period of at least two years and up to five years following his  
2190 most recent conviction for violating any provision of the hunting and trapping laws and regulations. In  
2191 determining the appropriate length of this restriction, the Director shall take into account the nature and  
2192 severity of the most recent violation and of any past violations of the hunting and trapping laws and  
2193 regulations by the applicant. No person shall be designated as a shooter under this section during a  
2194 period when such person's hunting license or privileges to hunt have been suspended or revoked.

2195 G. The Director or his designee may authorize, subject to the provisions of this section, the killing of  
2196 deer over bait within the political boundaries of any city or town, or any county with a special late  
2197 antlerless season, in the Commonwealth when requested by a certified letter from the governing body of  
2198 such locality.

2199 H. The parts of any deer or bear killed pursuant to this section or wildlife killed pursuant to  
2200 subsection C shall not be used for the purposes of taxidermy, mounts, or any public display unless  
2201 authorized by the Director or his designee. However, the meat of any such animal may be used for  
2202 human consumption. The carcass and any unused meat of any such animal shall be disposed of within  
2203 24 hours of being killed. Any person who violates any provision of this subsection is guilty of a Class 3  
2204 misdemeanor.

2205 I. It is unlawful to willfully and intentionally impede any person who is engaged in the lawful killing  
2206 of a bear or deer pursuant to written authorization issued under this section. Any person convicted of a  
2207 violation of this subsection is guilty of a Class 3 misdemeanor.

2208 **§ 29.1-530.1. Solid blaze orange or solid blaze pink clothing required at certain times.**

2209 A. For the purposes of this section, "solid blaze orange" means a safety orange or fluorescent orange  
2210 hue and "solid blaze pink" means a safety pink or fluorescent pink hue.

2211 B. During any firearms deer season, except during the special season for hunting deer with a

muzzle-loading rifle only, in counties and cities designated by the Board, every hunter and every person accompanying a hunter shall (i) wear a solid blaze orange or solid blaze pink hat, except that the bill or brim of the hat may be a color or design other than solid blaze orange or solid blaze pink, or solid blaze orange or solid blaze pink upper body clothing that is visible from 360 degrees, (ii) display at least 100 square inches of solid blaze orange or solid blaze pink material at shoulder level within body reach visible from 360 degrees, or (iii) when hunting from an enclosed ground blind, display at least 100 square inches of solid blaze orange or solid blaze pink material visible from 360 degrees attached to or immediately above a blind.

C. During the special season for hunting deer with a muzzle-loading rifle only, in counties and cities designated by the Board, every muzzleloader deer hunter and every person accompanying a muzzleloader deer hunter shall wear (i) a solid blaze orange or solid blaze pink hat, except that the bill or brim of the hat may be a color or design other than solid blaze orange or solid blaze pink, or (ii) solid blaze orange or solid blaze pink upper body clothing, either of which shall be visible from 360 degrees, unless such person is physically located in a tree stand or other stationary hunting location.

D. Any person violating the provisions of this section shall, upon conviction, pay a fine of \$25.

E. Violations of this section shall not be admissible in any civil action for personal injury or death as evidence of negligence, contributory negligence, or assumption of the risk.

F. This section shall not apply when (i) hunting waterfowl from stationary or floating blinds, (ii) hunting waterfowl over decoys, (iii) hunting waterfowl in wetlands as defined in § 28.2-1300, (iv) hunting waterfowl from a boat or other floating conveyance, (v) hunting doves, (vi) participating in hunting dog field trials permitted by the Board of Game and Inland Fisheries, (vii) on horseback while hunting foxes with hounds but without firearms, or (viii) hunting with a bow and arrow in areas where the discharge of firearms is prohibited by state law or local ordinance.

**§ 29.1-530.4. Duty of certain entities to report hunting incidents.**

Any law-enforcement agency or emergency medical services provider that receives a report that a person engaged in hunting as defined in § 29.1-100 has suffered serious bodily injury or death shall immediately give notice of the incident to the Department of Game and Inland Fisheries.

**§ 29.1-532. Dams and fishways.**

Any dam or other object in a watercourse, which obstructs navigation or the passage of fish, shall be deemed a nuisance, unless it is used to work a mill, factory or other machine or engine useful to the public, and is allowed by law or order of court. Any person owning or having control of any dam or other obstruction in the streams of the Commonwealth which may interfere with the free passage of anadromous and other migratory fish, shall provide every such dam or other obstruction with a suitable fishway unless the Board considers it unnecessary. The purpose of such a fishway is for anadromous and other migratory fish to have free passage up and down the streams during March, April, May and June, and down the streams throughout the remaining months. "Suitable fishway" means a fishway which passes significant numbers of the target fishes, as determined by the Board.

Owners of such dams or other authorized obstructions shall maintain and keep fishways operational, in good repair, and restore them in case of destruction.

Owners of dams or other obstructions which are not authorized by law must have the obstacles removed at their expense when the Board determines that the obstacles interfere with the free passage of anadromous and other migratory fish within the streams of the Commonwealth.

The circuit court of the county or city in which the dam is situated, after reasonable notice to the parties or party interested and upon satisfactory proof of the failure to comply, may order any necessary construction or destruction to be initiated or put in good repair at the expense of the owner of the dam or other obstruction. All such construction or destruction must be initiated within one year of the court order and completed within three years of the court order.

Any person failing to comply with this section shall pay as a penalty a percentage of the estimated cost of construction or destruction equal to the percentage specified on the judgment rate of interest pursuant to § 6.2-302, and the Board shall provide construction or destruction cost estimates.

Penalties collected pursuant to this section shall be directed to the Department of Game and Inland Fisheries.

This section shall not apply to the Meherrin River within the Counties of Brunswick and Greenville, nor to the Meherrin River within or between the Counties of Lunenburg and Mecklenburg, nor to the Nottoway River between the Counties of Lunenburg and Nottoway, nor to Abram's Creek in Shawnee district, Frederick County, nor to the James River between the City of Lynchburg and the County of Amherst, nor to the James River within the City of Richmond and between the City of Richmond and Henrico County, except that the exemption for those dams west of Virginia Route 161 which are located on the James River within the City of Richmond and between the City of Richmond and Henrico County shall expire on January 1, 1990, nor any streams within the Counties of Augusta, Lunenburg, Mecklenburg, Louisa, Buckingham, Halifax, Montgomery, Pulaski, Franklin, Russell, Tazewell, Giles,

2273 Bland, Craig, Wythe, Carroll and Grayson, nor to that part of any stream that forms a part of the  
2274 boundary of Halifax and Franklin Counties. Furthermore, no fish ladders shall be required on dams  
2275 twenty feet or more in height. The City of Richmond shall continue to work with the Department of  
2276 Game and Inland Fisheries toward implementing and funding a plan for breaching dams to provide  
2277 fishways for the passage of anadromous and other migratory fish.

2278 **§ 29.1-735.3. Regulation of parasail operators.**

2279 The Board of Game and Inland Fisheries shall promulgate regulations applicable to the commercial  
2280 operations of parasail operators on waters of the Commonwealth. Such regulations shall take into  
2281 consideration the operating standards and guidelines of the Professional Association of Parasail  
2282 Operators.

2283 **§ 29.1-801. Definitions.**

2284 Unless the context otherwise requires, the following words and terms for the purpose of this chapter  
2285 shall have the following meanings:

2286 "~~Board~~" means the Board of Game and Inland Fisheries.

2287 "Certificate of origin" means the document provided by the manufacturer of a new watercraft, or its  
2288 distributor, which is the only valid indication of ownership between the manufacturer, its distributor, its  
2289 franchised new watercraft dealers, and the original purchaser not for resale.

2290 "~~Department~~" means the Department of Game and Inland Fisheries.

2291 "~~Director~~" means the Director of the Department.

2292 "Distributor" means a person who sells or distributes new watercraft, pursuant to a written agreement  
2293 with the manufacturer, to new watercraft dealers in this Commonwealth.

2294 "Distributor branch" means a branch office maintained by a distributor for the sale of watercraft to  
2295 watercraft dealers or for directing or supervising, in whole or in part, its representatives in this  
2296 Commonwealth.

2297 "Distributor representative" means a person employed by a distributor or wholesaler, or by a  
2298 distributor branch, for the purpose of making or promoting the sale of watercraft dealt in by it or for  
2299 supervising or contacting its dealers, prospective dealers, or representatives in this Commonwealth.

2300 "Established place of business" means a salesroom in a permanent enclosed building or structure,  
2301 either owned in fee or leased, at which a permanent business of bartering, trading and selling of  
2302 watercraft will be carried on as such in good faith and at which place of business shall be kept and  
2303 maintained the books, records, and files necessary to conduct the business at such place. "Established  
2304 place of business" does not mean residences, tents, temporary stands, or other temporary quarters, nor  
2305 permanent quarters occupied pursuant to any temporary arrangement, devoted principally to the business  
2306 of a watercraft dealer, as defined in this section.

2307 "Factory branch" means a branch office, maintained by a person for the sale of watercraft to  
2308 distributors or for the sale of watercraft to watercraft dealers, or for directing or supervising, in whole or  
2309 in part, its representatives in this Commonwealth.

2310 "Factory representative" means a person employed by a person who manufactures or assembles  
2311 watercraft or by a factory branch for the purpose of making or promoting the sale of its watercraft or  
2312 for supervising or contacting its dealers, prospective dealers, or representatives in this Commonwealth.

2313 "Franchise" means a written contract or agreement between two or more persons whereby one  
2314 person, the franchisee, is granted the right to engage in the business of offering, selling and servicing  
2315 new watercraft manufactured or distributed by the grantor of the right, the franchisor, and where the  
2316 operation of the franchisee's business is substantially associated with the franchisor's trademark, trade  
2317 name, advertising, or other commercial symbol designating the franchisor, the watercraft or its  
2318 manufacturer or distributor.

2319 "Manufacturer" means a person engaged in the business of constructing or assembling new  
2320 watercraft.

2321 "New watercraft" means any watercraft that (i) has not been previously sold except in good faith for  
2322 the purpose of resale; (ii) has not been used as a rental or demonstration watercraft, or for the personal  
2323 and business transportation of the manufacturer or dealer or any of their employees, for any use other  
2324 than the limited use necessary in testing the watercraft prior to delivery to a customer; (iii) is transferred  
2325 by a certificate of origin; and (iv) has the manufacturer's certification that it conforms to all applicable  
2326 federal watercraft safety standards.

2327 "New watercraft dealer" means a dealer in new watercraft or new and used watercraft.

2328 "Person" means any natural person or individual, partnership, firm, association, corporation, or other  
2329 entity.

2330 "Retail installment sale" means and includes every sale of one or more watercraft to a buyer for his  
2331 use and not for resale, in which the price thereof is payable in one or more installments over a period of  
2332 time and in which the seller has either retained title to the goods or has taken or retained a security  
2333 interest in the goods under form of contract designated either as a conditional sale, bailment lease,  
2334 chattel mortgage or otherwise.

"Sale at retail" or "retail sale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a watercraft to a buyer for his personal use and not for resale.

"Sale at wholesale" or "wholesale" means a sale to watercraft dealers or wholesalers other than to consumers or a sale to one who intends to resell.

"Used watercraft" means any watercraft other than a new watercraft as defined in this section.

"Used watercraft dealer" means a dealer in used watercraft that does not deal in new watercraft.

"Watercraft" means the same as that term is defined in § 29.1-733.2 except that (i) United States naval watercraft, (ii) watercraft that have a valid marine document issued by the United States Coast Guard other than recreational watercraft under 70 feet in length, and (iii) watercraft documented outside the United States are not included in such definition for purposes of this chapter.

"Watercraft dealer" means any person that:

1. For commission, money, or other thing of value, buys, sells, exchanges, either outright or on conditional sale, bailment lease, chattel mortgage, or otherwise howsoever, or arranges or offers or attempts to solicit or negotiate on behalf of others a sale, purchase, or exchange of an interest in, new watercraft or new and used watercraft or used watercraft alone whether or not such watercraft are owned by such person;

2. Is engaged, wholly or in part, in the business of selling new watercraft or new and used watercraft, or used watercraft only, whether or not such watercraft are owned by such person; or

3. Sells, offers to sell, displays, or permits the display for sale of two or more watercraft within any 12 consecutive months.

For the purpose of this chapter, "watercraft dealer" does not include:

1. Receivers, trustees, administrators, executors, guardians, conservators, or other persons appointed by or acting under judgment or order of any court or their employees when engaged in the specific performance of their duties as such employees;

2. Public officers, their deputies, assistants, or employees, while performing their official duties;

3. Persons, other than corporations or other business entities primarily engaged in the leasing or renting of watercraft to others, (i) when selling or offering such watercraft for sale at retail or (ii) disposing of watercraft acquired for their own use and actually so used, when the same shall have been so acquired and used in good faith and not for the purpose of avoiding the provisions of this chapter;

4. Any corporation duly chartered or authorized to do a banking or trust business under the authority of the laws of this Commonwealth, or the United States, that may have received title to a watercraft in the normal course of its business by reason of a foreclosure, other taking, repossession or voluntary reconveyance to said corporation arising or occurring as a result of any loan secured by a lien on said watercraft;

5. An employee of an organization arranging for the purchase or lease by the organization of watercraft for use in the organization's business;

6. Any person who permits the operation of a watercraft show or permits the display of watercraft for sale by any watercraft dealer licensed under this chapter; or

7. An insurance company licensed or otherwise authorized to do business in this Commonwealth that sells or disposes of watercraft under a contract with its insured and in the regular course of its business.

"Watercraft demonstrator" means any person who is employed or contracted by a watercraft dealer to demonstrate watercraft to prospective buyers.

"Watercraft salesman" or "salesman" means any person who is employed as a salesman by, or has an agreement with, a watercraft dealer to sell or exchange watercraft.

"Watercraft show" means a display of watercraft to the general public at a location other than a dealer's location licensed under this chapter where such watercraft may be offered for sale or exchange during or as part of the display.

#### **§ 30-34.5. Printing and distribution of Acts of Assembly.**

A. The Commission shall, within 45 days following the adjournment of the General Assembly sine die, send to each requesting member of the General Assembly a copy of each Act of Assembly signed by the Governor or if otherwise enacted into law, in the form in which it is signed by the Governor or otherwise enacted into law. Each act so sent shall be clearly denominated with the House of Delegates or the Senate bill number assigned to it by the respective houses of the General Assembly.

B. The Commission shall also requisition, through the Division of Legislative Automated Systems, as soon as approved by the Governor, not in excess of 5,000 copies of the acts and joint resolutions of the General Assembly. These it shall have bound in ordinary half binding, with the index and tables required by law to be printed with the acts and joint resolutions of the General Assembly, and as soon as practicable after the close of each session of the General Assembly, shall deliver by mail, express or otherwise, if requested pursuant to § 30-34.4:1:

1. One copy to the Governor; and such additional copies as may be requested for use in the Governor's office;

- 2396 2. One copy to each of the Governor's secretaries;  
 2397 3. One copy to each head of department; each division of the Governor's office, the Commissioner of  
 2398 the Virginia Workers' Compensation Commission, the Employment Commission and the Department of  
 2399 Motor Vehicles, the Director of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* and  
 2400 the Executive Secretary of the Compensation Board and the Director of the Virginia Retirement System;  
 2401 4. As many copies to the Division of Legislative Services as may be required by the Division for its  
 2402 use or for exchange with other states;  
 2403 5. One copy to each member of the General Assembly; however, up to four additional copies may be  
 2404 obtained upon application to the Division of Legislative Automated Systems;  
 2405 6. One copy to the Lieutenant Governor;  
 2406 7. One copy to each judge;  
 2407 8. Five copies to the State Corporation Commission;  
 2408 9. Twenty-five copies to the Attorney General;  
 2409 10. One copy to the reporter of the Supreme Court, the Executive Secretary of the Supreme Court,  
 2410 and each clerk of any court, attorney for the Commonwealth, Commissioner of the Revenue, Treasurer,  
 2411 public library, school board, judge and clerk of any court held in this Commonwealth under the laws of  
 2412 the United States and each attorney and marshal in this Commonwealth holding office under the United  
 2413 States;  
 2414 11. One copy to the city manager of a city, the mayor of a town and the county administrator,  
 2415 manager or executive depending on the county's form of government; however, an additional copy for  
 2416 use within the city, town or county may be obtained upon application to the Division of Legislative  
 2417 Automated Systems;  
 2418 12. Five copies to The Library of Virginia;  
 2419 13. Five copies to the State Law Library;  
 2420 14. One copy to the head of each institution of higher education in the Commonwealth;  
 2421 15. One copy to the library of each institution of higher education in the Commonwealth;  
 2422 16. One copy to the Virginia School for the Deaf and the Blind;  
 2423 17. Five copies to the Clerk of the Senate for the use of the Senate;  
 2424 18. Ten copies to the Clerk of the House of Delegates for the use of the House;  
 2425 19. Three copies to the Auditor of Public Accounts;  
 2426 20. Three additional copies to the Comptroller;  
 2427 21. One copy to the county attorney in those counties which have created the office of the county  
 2428 attorney;  
 2429 22. One copy to the Joint Legislative Audit and Review Commission;  
 2430 23. One copy to the Committee on Appropriations of the House of Delegates;  
 2431 24. One copy to the Committee on Finance of the Senate; and  
 2432 25. One copy to the Division of Legislative Automated Systems.
- 2433 **§ 32.1-48.1. Regulation of State Health Commissioner declaring existence of rabies; display and**  
 2434 **publication.**  
 2435 Whenever the State Health Commissioner is informed that an outbreak of rabies has occurred in a  
 2436 county or city, he may, after consulting with the Commissioner of Agriculture and Consumer Services  
 2437 and the Executive Director of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, adopt a  
 2438 regulation declaring the existence of rabies in such county or city and containing such requirements as  
 2439 are hereinafter set forth. Such regulations shall be prominently displayed throughout the county or city  
 2440 and shall be published therein by signs or otherwise to call the attention of the public to the existence of  
 2441 such outbreak.
- 2442 **§ 33.2-329. Transfer of control, etc., of landings, docks, and wharves to Department of Wildlife**  
 2443 **Resources.**  
 2444 A. Notwithstanding any other provision of law, the Board may transfer the control, possession,  
 2445 supervision, management, and jurisdiction of landings, wharves, and docks in the secondary state  
 2446 highway system to the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, at the request or  
 2447 with the concurrence of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*. Such transfer  
 2448 may be by lease, agreement, or otherwise, approved by resolution of the Board, and signed by the  
 2449 Commissioner of Highways or his designee, for such period and upon such terms and conditions as the  
 2450 Board may direct.
- 2451 B. All such transfers effected prior to July 1, 1980, by lease, agreement, or otherwise, from the  
 2452 Department to the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* and all regulations of  
 2453 the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* controlling the use of such facilities  
 2454 shall be and are hereby declared valid in every respect.
- 2455 **§ 33.2-613. Free use of toll facilities by certain state officers and employees; penalties.**  
 2456 A. Upon presentation of a toll pass issued pursuant to regulations promulgated by the Board, the  
 2457 following persons may use all toll bridges, toll ferries, toll tunnels, and toll roads in the Commonwealth



without the payment of toll while in the performance of their official duties:

1. The Commissioner of Highways;
  2. Members of the Commonwealth Transportation Board;
  3. Employees of the Department of Transportation;
  4. The Superintendent of the Department of State Police;
  5. Officers and employees of the Department of State Police;
  6. Members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority;
  7. Employees of the regulatory and hearings divisions of the Virginia Alcoholic Beverage Control Authority and special agents of the Virginia Alcoholic Beverage Control Authority;
  8. The Commissioner of the Department of Motor Vehicles;
  9. Employees of the Department of Motor Vehicles;
  10. Local police officers;
  11. Sheriffs and their deputies;
  12. Regional jail officials;
  13. Animal wardens;
  14. The Director and officers of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*;
  15. Persons operating firefighting equipment and emergency medical services vehicles as defined in § 32.1-111.1;
  16. Operators of school buses being used to transport pupils to or from schools;
  17. Operators of (i) commuter buses having a capacity of 20 or more passengers, including the driver, and used to regularly transport workers to and from their places of employment and (ii) public transit buses;
  18. Employees of the Department of Rail and Public Transportation;
  19. Employees of any transportation facility created pursuant to the Virginia Highway Corporation Act of 1988; and
  20. Law-enforcement officers of the Virginia Marine Resources Commission.
- B. Notwithstanding the provision of subsection A requiring presentation of a toll pass for toll-free use of such facilities, in cases of emergency and circumstances of concern for public safety on the highways of the Commonwealth, the Department of Transportation shall, in order to alleviate an actual or potential threat or risk to the public's safety, facilitate the flow of traffic on or within the vicinity of the toll facility by permitting the temporary suspension of toll collection operations on its facilities.
1. The assessment of the threat to public safety shall be performed and the decision temporarily to suspend toll collection operations shall be made by the Commissioner of Highways or his designee.
  2. Major incidents that may require the temporary suspension of toll collection operations shall include (i) natural disasters, such as hurricanes, tornadoes, fires, and floods; (ii) accidental releases of hazardous materials, such as chemical spills; (iii) major traffic accidents, such as multivehicle collisions; and (iv) other incidents deemed to present a risk to public safety. Any mandatory evacuation during a state of emergency as defined in § 44-146.16 shall require the temporary suspension of toll collection operations in affected evacuation zones on routes designated as mass evacuation routes. The Commissioner of Highways shall reinstate toll collection when the mandatory evacuation period ends.
  3. In any judicial proceeding in which a person is found to be criminally responsible or civilly liable for any incident resulting in the suspension of toll collections as provided in this subsection, the court may assess against the person an amount equal to lost toll revenue as a part of the costs of the proceeding and order that such amount, not to exceed \$2,000 for any individual incident, be paid to the Department of Transportation for deposit into the toll road fund.
- C. Any tollgate keeper who refuses to permit the persons listed in subsection A to use any toll bridge, toll ferry, toll tunnel, or toll road upon presentation of such a toll pass is guilty of a misdemeanor punishable by a fine of not more than \$50 and not less than \$2.50. Any person other than those listed in subsection A who exhibits any such toll pass for the purpose of using any toll bridge, toll ferry, toll tunnel, or toll road is guilty of a Class 1 misdemeanor.
- D. Any vehicle operated by the holder of a valid driver's license issued by the Commonwealth or any other state shall be allowed free use of all toll bridges, toll roads, and other toll facilities in the Commonwealth if:
1. The vehicle is specially equipped to permit its operation by a handicapped person;
  2. The driver of the vehicle has been certified, either by a physician licensed by the Commonwealth or any other state or by the Adjudication Office of the U.S. Department of Veterans Affairs, as being severely physically disabled and having permanent upper limb mobility or dexterity impairments that substantially impair his ability to deposit coins in toll baskets;
  3. The driver has applied for and received from the Department of Transportation a vehicle window sticker identifying him as eligible for such free passage; and
  4. Such identifying window sticker is properly displayed on the vehicle.

2519 A copy of this subsection shall be posted at all toll bridges, toll roads, and other toll facilities in the  
2520 Commonwealth. The Department of Transportation shall provide envelopes for payments of tolls by  
2521 those persons exempted from tolls pursuant to this subsection and shall accept any payments made by  
2522 such persons.

2523 E. Nothing contained in this section or in § 33.2-612 or 33.2-1718 shall operate to affect the  
2524 provisions of § 22.1-187.

2525 F. Notwithstanding the provisions of subsections A, B, and C, only the following persons may use  
2526 the Chesapeake Bay Bridge-Tunnel, facilities of the Richmond Metropolitan Transportation Authority, or  
2527 facilities of an operator authorized to operate a toll facility pursuant to the Public-Private Transportation  
2528 Act of 1995 (§ 33.2-1800 et seq.) without the payment of toll when necessary and incidental to the  
2529 conduct of official business:

- 2530 1. The Commissioner of Highways;
- 2531 2. Members of the Commonwealth Transportation Board;
- 2532 3. Employees of the Department of Transportation;
- 2533 4. The Superintendent of the Department of State Police;
- 2534 5. Officers and employees of the Department of State Police;
- 2535 6. The Commissioner of the Department of Motor Vehicles;
- 2536 7. Employees of the Department of Motor Vehicles; and
- 2537 8. Sheriffs and deputy sheriffs.

2538 However, in the event of a mandatory evacuation and suspension of tolls pursuant to subdivision B  
2539 2, the Commissioner of Highways or his designee shall order the temporary suspension of toll collection  
2540 operations on facilities of all operators authorized to operate a toll facility pursuant to the Public-Private  
2541 Transportation Act of 1995 (§ 33.2-1800 et seq.) that has been designated as a mass evacuation route in  
2542 affected evacuation zones, to the extent such order is necessary to facilitate evacuation and is consistent  
2543 with the terms of the applicable comprehensive agreement between the operator and the Department.  
2544 The Commissioner of Highways shall authorize the reinstatement of toll collections suspended pursuant  
2545 to this subsection when the mandatory evacuation period ends or upon the reinstatement of toll  
2546 collections on other tolled facilities in the same affected area, whichever occurs first.

2547 G. Any vehicle operated by a quadriplegic driver shall be allowed free use of all toll facilities in  
2548 Virginia controlled by the Richmond Metropolitan Transportation Authority, pursuant to the requirements  
2549 of subdivisions D 1 through 4.

2550 H. Vehicles transporting two or more persons, including the driver, may be permitted toll-free use of  
2551 the Dulles Toll Road during rush hours by the Board; however, notwithstanding the provisions of  
2552 subdivision B 1 of § 56-543, such vehicles shall not be permitted toll-free use of a roadway as defined  
2553 pursuant to the Virginia Highway Corporation Act of 1988 (§ 56-535 et seq.).

2554 **§ 33.2-909. Abandonment of highway, landing, or railroad crossing; procedure.**

2555 A. The governing body of any county on its own motion or upon petition of any interested  
2556 landowner may cause any section of the secondary state highway system, or any crossing by the  
2557 highway of the lines of a railroad company or crossing by the lines of a railroad company of the  
2558 highway, deemed by it to be no longer necessary for the uses of the secondary state highway system to  
2559 be abandoned altogether as a public highway, a public landing, or a public railroad crossing by  
2560 complying substantially with the procedure provided in this section.

2561 B. The governing body of the county shall give notice of its intention to abandon any such highway,  
2562 landing, or railroad crossing (i) by posting a notice of such intention at least three days before the first  
2563 day of a regular term of the circuit court at the front door of the courthouse of the county in which the  
2564 section of the highway, landing, or railroad crossing sought to be abandoned as a public highway, public  
2565 landing, or public railroad crossing is located or (ii) by posting notice in at least three places on and  
2566 along the highway, landing, or railroad crossing sought to be abandoned for at least 30 days and in  
2567 either case by publishing notice of its intention in two or more issues of a newspaper having general  
2568 circulation in the county. In addition, the governing body of the county shall give notice of its intention  
2569 to abandon such highway, landing, or railroad crossing to the Board or the Commissioner of Highways.  
2570 In any case in which the highway, landing, or railroad crossing proposed to be abandoned lies in two or  
2571 more counties, the governing bodies of such counties shall not abandon such highway, landing, or  
2572 railroad crossing unless and until all affected governing bodies agree. The procedure in such cases shall  
2573 conform mutatis mutandis to the procedure prescribed for the abandonment of a highway, landing, or  
2574 railroad crossing located entirely within a county.

2575 When the governing body of a county gives notice of intention to abandon a public landing, the  
2576 governing body shall also give such notice to the Department of ~~Game and Inland Fisheries~~ *Wildlife*  
2577 *Resources*.

2578 C. If one or more landowners in the county whose property abuts the highway, landing, or railroad  
2579 crossing proposed to be abandoned, or if only a section of a highway, landing, or railroad crossing is  
2580 proposed to be abandoned, whose property abuts such section, or the Board or the Department of ~~Game~~

and ~~Inland Fisheries Wildlife Resources~~, in the case of a public landing, files a petition with the governing body of the county within 30 days after notice is posted and published as provided in this section, the governing body of the county shall hold a public hearing on the proposed abandonment and shall give notice of the time and place of the hearing by publishing such information in at least two issues in a newspaper having general circulation in the county and shall also give notice to the Board or, if a public landing is sought to be abandoned, to the Department of ~~Game and Inland Fisheries Wildlife Resources~~.

D. If a petition for a public hearing is not filed as provided in this section, or if after a public hearing is held the governing body of the county is satisfied that no public necessity exists for the continuance of the section of the secondary highway as a public highway or the railroad crossing as a public railroad crossing or the landing as a public landing or that the safety and welfare of the public would be served best by abandoning the section of highway, the landing, or the railroad crossing as a public highway, public landing, or public railroad crossing, the governing body of the county shall (i) within four months of the 30-day period during which notice was posted where no petition for a public hearing was filed or (ii) within four months after the public hearing adopt an ordinance or resolution abandoning the section of highway as a public highway, or the landing as a public landing, or the railroad crossing as a public railroad crossing, and with that ordinance or resolution the section of highway shall cease to be a public highway, a public landing, or a public railroad crossing. If the governing body is not so satisfied, it shall dismiss the application within the applicable four months provided in this subsection.

E. A finding by the governing body of a county that a section of the secondary state highway system is no longer necessary for the uses of the secondary state highway system may be made if the following conditions exist:

1. The highway is located within a residence district as defined in § 46.2-100;
2. The residence district is located within a county having a density of population exceeding 1,000 per square mile;
3. Continued operation of the section of highway in question constitutes a threat to the public safety and welfare; and
4. Alternate routes for use after abandonment of the highway are readily available.

F. In considering the abandonment of any section of highway under the provisions of this section, due consideration shall be given to the historic value, if any, of such highway.

G. Any ordinance or resolution of abandonment issued in compliance with this section shall give rise in subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.

H. No public landing shall be abandoned unless the Board of ~~Game and Inland Fisheries Wildlife Resources~~ shall by resolution concur in such abandonment.

#### **§ 33.2-910. Appeal to circuit court.**

Any one or more of the landowners whose property abuts the highway, landing, or railroad crossing proposed to be abandoned, or if only a section of a highway, landing, or railroad crossing is proposed to be abandoned, whose property abuts such section of the highway, landing, or railroad crossing, and who petitioned for a public hearing under § 33.2-909 or the Commissioner of Highways, or if a public landing is proposed to be abandoned, the Director of the Department of ~~Game and Inland Fisheries Wildlife Resources~~, may within 30 days from the adoption of an ordinance or resolution by the governing body of the county appeal from the ordinance or resolution to the circuit court of the county in which the section of highway, the public landing, or the railroad crossing sought to be abandoned under § 33.2-909 is located. Where the governing body of the county fails to adopt an ordinance or resolution pursuant to § 33.2-909, such person or persons named in this section shall within 30 days from such failure have a right of appeal to the appropriate circuit court. Such appeal shall be filed by petition in the clerk's office of such court, setting out the ordinance or resolution appealed from or the cause appealed from where no ordinance or resolution was adopted and the grounds of such appeal. Upon the filing of such petition, the clerk of the circuit court shall docket the appeal, giving it a preferred status, and if the appeal is by any of the landowners who filed a petition with the governing body of the county for a public hearing, notice of such appeal shall be served upon each member of the governing body of the county pursuant to § 8.01-300 and either the Commissioner of Highways or the Director of the Department of ~~Game and Inland Fisheries Wildlife Resources~~, as applicable, and if the appeal is by either the Commissioner of Highways or the Director of the Department of ~~Game and Inland Fisheries Wildlife Resources~~, notice of such appeal shall be served upon the governing body of the county and the landowners who filed petition with the governing body of the county for a public hearing. No such appeal shall be tried by the court within 10 days after notice is given, as provided in this section unless such notice is waived. The circuit court shall decide the appeal based upon the record and upon such other evidence as may be presented by the parties. Upon the hearing of the appeal, the court shall ascertain and by its order determine whether adequate justification exists for the decision of

the governing body of the county that public necessity exists for the continuance of the section of highway, landing, or the railroad crossing as a public highway, public landing, or public railroad crossing or whether the welfare of the public will be served best by abandoning the section of the highway, landing, or the railroad crossing as a public highway, public landing, or public railroad crossing and shall enter its order accordingly.

Upon any such appeal, if it appears to the court that by the abandonment of such section of highway, landing, or railroad crossing as a public highway, public landing, or public railroad crossing any party to such appeal would be deprived of access to a public highway, the court may cause the railroad company and the governing body of the county, or either, to be made parties to the proceedings, if not already parties, and may enter such orders as seem just and proper for keeping open such section of highway, landing, or railroad crossing for the benefit of such party or parties.

**§ 43-32. Lien of keeper of livery stable, marina, etc.**

A. Every keeper of a livery stable, hangar, tie-down, or marina, and every person pasturing or keeping any horses or other animals, boats, aircraft, or harness, shall have a lien upon such horses and other animals, boats, aircraft, and harness, for the amount that may be due him for the towing, storage, recovery, keeping, supporting, and care thereof, until such amount is paid.

B. In the case of any boat or aircraft subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the marina, hangar, or tie-down shall have a lien thereon for his reasonable charges for storage under this section not to exceed \$500 and for alteration and repair under § 43-33 not to exceed \$1,000. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* within seven business days of taking possession of the boat or aircraft. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, not to exceed \$500. Notwithstanding a redelivery, the watercraft shall be subject to subsection D.

C. In addition, any person furnishing services involving the towing and recovery of a boat or aircraft shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the boat or aircraft by certified mail, return receipt requested, to all secured parties of record at the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*.

D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid.

**§ 51.1-212. Definitions.**

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

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

**§ 54.1-3800. Practice of veterinary medicine.**

Any person shall be regarded as practicing veterinary medicine within the meaning of this chapter who represents himself, directly or indirectly, publicly or privately, as a veterinary doctor or uses any title, words, abbreviation or letters in a manner or under circumstances which may reasonably induce the belief that the person using them is qualified to practice veterinary medicine.

Any person shall be deemed to be practicing veterinary medicine who performs the diagnosis, treatment, correction, change, relief or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; including the performance of surgery or dentistry, the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for embryo transfer, for testing for pregnancy, or for correcting sterility or infertility, or to render advice or

recommendation with regard to any of the above.

Nothing in this chapter shall prohibit persons permitted or authorized by the Department of Game and Inland Fisheries *Wildlife Resources* to do so from providing care for wildlife as defined in § 29.1-100, provided that the Department determines that such persons are in compliance with its regulations and permit conditions.

**§ 55.1-2902. Enforcement of lien.**

A. 1. If any occupant is in default under a rental agreement, the owner shall notify the occupant of such default by regular mail at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means. If such default is not cured within 10 days after its occurrence, then the owner may proceed to enforce such lien by selling the contents of the occupant's unit at public auction, for cash, and apply the proceeds to satisfaction of the lien, with the surplus, if any, to be disbursed as provided in this section. Before conducting such a public auction, the owner shall notify the occupant as prescribed in subsection C and shall advertise the time, place, and terms of such auction in such manner as to give the public notice.

2. In the case of personal property having a fair market value in excess of \$1,000, and against which a creditor has filed a financing statement in the name of the occupant at the State Corporation Commission or in the county or city where the self-service storage facility is located or in the county or city in the Commonwealth shown as the last known address of the occupant, or if such personal property is a watercraft required by the laws of the Commonwealth to be registered and the Department of Game and Inland Fisheries *Wildlife Resources* shows a lien on the certificate of title, the owner shall notify the lienholder of record, by certified mail, at the address on the financing statement or certificate of title, at least 10 days prior to the time and place of the proposed public auction.

If the owner of the personal property cannot be ascertained, the name of "John Doe" shall be substituted in the proceedings provided for in this section and no written notice shall be required. Whenever a watercraft is sold pursuant to this subsection, the Department of Game and Inland Fisheries *Wildlife Resources* shall issue a certificate of title and registration to the purchaser of such watercraft upon his application containing the serial or motor number of the watercraft purchased, together with an affidavit by the lienholder, or by the person conducting the public auction, evidencing compliance with the provisions of this subsection.

B. Whenever the occupant is in default, the owner shall have the right to deny the occupant access to the leased space.

C. After the occupant has been in default for a period of 10 days, and before the owner can sell the occupant's personal property in accordance with this chapter, the owner shall send a further notice of default, by verified mail, postage prepaid, to the occupant at his last known address, or, if expressly provided for in the rental agreement, such notice may be given by electronic means, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery. Such notice of default shall include:

1. An itemized statement of the owner's claim, indicating the charges due on the date of the notice and the date when the charges became due;

2. A demand for payment of the charges due within a specified time not less than 20 days after the date of the notice;

3. A statement that the contents of the occupant's leased space are subject to the owner's lien;

4. A conspicuous statement that unless the claim is paid within the time stated, the contents of the occupant's space will be sold at public auction at a specified time and place; and

5. The name, street address, and telephone number of the owner or his designated agent whom the occupant may contact to respond to the notice.

D. At any time prior to the public auction pursuant to this section, the occupant may pay the amount necessary to satisfy the lien and thereby redeem the personal property.

E. In the event of a public auction pursuant to this section, the owner may satisfy his lien from the proceeds of the public auction and shall hold the balance, if any, for delivery on demand to the occupant or other lienholder referred to in this chapter. However, the owner shall not be obligated to hold any balance for a lienholder of record notified pursuant to subdivision A 2, or any other lien creditor, that fails to claim an interest in the balance within 30 days of the public auction. So long as the owner complies with the provisions of this chapter, the owner's liability to the occupant under this chapter shall be limited to the net proceeds received from the public auction of any personal property and, as to other lienholders, shall be limited to the net proceeds received from the public auction of any personal property covered by such superior lien.

F. Any public auction of the personal property shall be held (i) at the self-service storage facility, (ii) at the nearest suitable place to where the personal property is held or stored, or (iii) online. An advertisement shall be published in a newspaper of general circulation in the locality in which the public

2765 auction is to be held, or in the case of an online public auction, in the county, city, or town in which  
2766 the self-service storage facility is located, at least once prior to the public auction. The advertisement  
2767 shall state (a) the fact that it is a public auction; (b) the date, time, and location of the public auction;  
2768 and (c) the form of payment that will be accepted.

2769 G. A purchaser in good faith of any personal property sold or otherwise disposed of pursuant to this  
2770 chapter takes such property free and clear of any rights of persons against whom the lien was valid.

2771 H. Any notice made pursuant to this section shall be presumed delivered when it is (i) deposited  
2772 with the United States Postal Service and properly addressed to the occupant's last known address with  
2773 postage prepaid or (ii) sent by ~~electron~~ electronic means, provided that the sender retains sufficient proof  
2774 of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice  
2775 was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic  
2776 delivery. In the event of a dispute, the sender shall have the burden to demonstrate delivery of the  
2777 notice of default.

2778 I. In the case of any motor vehicle, so long as the motor vehicle remains stored within such leased  
2779 space, the owner shall have a lien on such vehicle in accordance with § 46.2-644.01.

2780 **§ 56-46.1. Commission to consider environmental, economic and improvements in service**  
2781 **reliability factors in approving construction of electrical utility facilities; approval required for**  
2782 **construction of certain electrical transmission lines; notice and hearings.**

2783 A. Whenever the Commission is required to approve the construction of any electrical utility facility,  
2784 it shall give consideration to the effect of that facility on the environment and establish such conditions  
2785 as may be desirable or necessary to minimize adverse environmental impact. In order to avoid  
2786 duplication of governmental activities, any valid permit or approval required for an electric generating  
2787 plant and associated facilities issued or granted by a federal, state or local governmental entity charged  
2788 by law with responsibility for issuing permits or approvals regulating environmental impact and  
2789 mitigation of adverse environmental impact or for other specific public interest issues such as building  
2790 codes, transportation plans, and public safety, whether such permit or approval is granted prior to or  
2791 after the Commission's decision, shall be deemed to satisfy the requirements of this section with respect  
2792 to all matters that (i) are governed by the permit or approval or (ii) are within the authority of, and were  
2793 considered by, the governmental entity in issuing such permit or approval, and the Commission shall  
2794 impose no additional conditions with respect to such matters. Nothing in this section shall affect the  
2795 ability of the Commission to keep the record of a case open. Nothing in this section shall affect any  
2796 right to appeal such permits or approvals in accordance with applicable law. In the case of a proposed  
2797 facility located in a region that was designated as of July 1, 2001, as serious nonattainment for the  
2798 one-hour ozone standard as set forth in the federal Clean Air Act, the Commission shall not issue a  
2799 decision approving such proposed facility that is conditioned upon issuance of any environmental permit  
2800 or approval. In every proceeding under this subsection, the Commission shall receive and give  
2801 consideration to all reports that relate to the proposed facility by state agencies concerned with  
2802 environmental protection; and if requested by any county or municipality in which the facility is  
2803 proposed to be built, to local comprehensive plans that have been adopted pursuant to Article 3  
2804 (§ 15.2-2223 et seq.) of Chapter 22 of Title 15.2. Additionally, the Commission (a) shall consider the  
2805 effect of the proposed facility on economic development within the Commonwealth, including but not  
2806 limited to furtherance of the economic and job creation objectives of the Commonwealth Energy Policy  
2807 set forth in §§ 67-101 and 67-102, and (b) shall consider any improvements in service reliability that  
2808 may result from the construction of such facility.

2809 B. Subject to the provisions of subsection J, no electrical transmission line of 138 kilovolts or more  
2810 shall be constructed unless the State Corporation Commission shall, after at least 30 days' advance  
2811 notice by (i) publication in a newspaper or newspapers of general circulation in the counties and  
2812 municipalities through which the line is proposed to be built, (ii) written notice to the governing body of  
2813 each such county and municipality, and (iii) causing to be sent a copy of the notice by first class mail to  
2814 all owners of property within the route of the proposed line, as indicated on the map or sketch of the  
2815 route filed with the Commission, which requirement shall be satisfied by mailing the notice to such  
2816 persons at such addresses as are indicated in the land books maintained by the commissioner of revenue,  
2817 director of finance or treasurer of the county or municipality, approve such line. Such notices shall  
2818 include a written description of the proposed route the line is to follow, as well as a map or sketch of  
2819 the route including a digital geographic information system (GIS) map provided by the public utility  
2820 showing the location of the proposed route. The Commission shall make GIS maps provided under this  
2821 subsection available to the public on the Commission's website. Such notices shall be in addition to the  
2822 advance notice to the chief administrative officer of the county or municipality required pursuant to  
2823 § 15.2-2202. As a condition to approval the Commission shall determine that the line is needed and that  
2824 the corridor or route the line is to follow will reasonably minimize adverse impact on the scenic assets,  
2825 historic districts and environment of the area concerned. To assist the Commission in this determination,  
2826 as part of the application for Commission approval of the line, the applicant shall summarize its efforts

to reasonably minimize adverse impact on the scenic assets, historic districts, and environment of the area concerned. In making the determinations about need, corridor or route, and method of installation, the Commission shall verify the applicant's load flow modeling, contingency analyses, and reliability needs presented to justify the new line and its proposed method of installation. If the local comprehensive plan of an affected county or municipality designates corridors or routes for electric transmission lines and the line is proposed to be constructed outside such corridors or routes, in any hearing the county or municipality may provide adequate evidence that the existing planned corridors or routes designated in the plan can adequately serve the needs of the company. Additionally, the Commission shall consider, upon the request of the governing body of any county or municipality in which the line is proposed to be constructed, (a) the costs and economic benefits likely to result from requiring the underground placement of the line and (b) any potential impediments to timely construction of the line.

C. If, prior to such approval, any interested party shall request a public hearing, the Commission shall, as soon as reasonably practicable after such request, hold such hearing or hearings at such place as may be designated by the Commission. In any hearing the public service company shall provide adequate evidence that existing rights-of-way cannot adequately serve the needs of the company.

If, prior to such approval, written requests therefor are received from the governing body of any county or municipality through which the line is proposed to be built or from 20 or more interested parties, the Commission shall hold at least one hearing in the area that would be affected by construction of the line, for the purpose of receiving public comment on the proposal. If any hearing is to be held in the area affected, the Commission shall direct that a copy of the transcripts of any previous hearings held in the case be made available for public inspection at a convenient location in the area for a reasonable time before such local hearing.

D. As used in this section, unless the context requires a different meaning:

"Environment" or "environmental" shall be deemed to include in meaning "historic," as well as a consideration of the probable effects of the line on the health and safety of the persons in the area concerned.

"Interested parties" shall include the governing bodies of any counties or municipalities through which the line is proposed to be built, and persons residing or owning property in each such county or municipality.

"Public utility" means a public utility as defined in § 56-265.1.

"Qualifying facilities" means a cogeneration or small power production facility which meets the criteria of 18 C.F.R. Part 292.

"Reasonably accommodate requests to wheel or transmit power" means:

1. That the applicant will make available to new electric generation facilities constructed after January 9, 1991, qualifying facilities and other nonutilities, a minimum of one-fourth of the total megawatts of the additional transmission capacity created by the proposed line, for the purpose of wheeling to public utility purchasers the power generated by such qualifying facilities and other nonutility facilities which are awarded a power purchase contract by a public utility purchaser in compliance with applicable state law or regulations governing bidding or capacity acquisition programs for the purchase of electric capacity from nonutility sources, provided that the obligation of the applicant will extend only to those requests for wheeling service made within the 12 months following certification by the State Corporation Commission of the transmission line and with effective dates for commencement of such service within the 12 months following completion of the transmission line; and

2. That the wheeling service offered by the applicant, pursuant to subdivision D 1, will reasonably further the purposes of the Public Utilities Regulatory Policies Act of 1978 (P. L. 95-617), as demonstrated by submitting to the Commission, with its application for approval of the line, the cost methodologies, terms, conditions, and dispatch and interconnection requirements the applicant intends, subject to any applicable requirements of the Federal Energy Regulatory Commission, to include in its agreements for such wheeling service.

E. In the event that, at any time after the giving of the notice required in subsection B, it appears to the Commission that consideration of a route or routes significantly different from the route described in the notice is desirable, the Commission shall cause notice of the new route or routes to be published and mailed in accordance with subsection B. The Commission shall thereafter comply with the provisions of this section with respect to the new route or routes to the full extent necessary to give affected localities and interested parties in the newly affected areas the same protection afforded to affected localities and interested parties affected by the route described in the original notice.

F. Approval of a transmission line pursuant to this section shall be deemed to satisfy the requirements of § 15.2-2232 and local zoning ordinances with respect to such transmission line.

G. The Commission shall enter into a memorandum of agreement with the Department of Environmental Quality regarding the coordination of their reviews of the environmental impact of

2888 electric generating plants and associated facilities.

2889 H. An applicant that is required to obtain (i) a certificate of public convenience and necessity from  
2890 the Commission for any electric generating facility, electric transmission line, natural or manufactured  
2891 gas transmission line as defined in 49 Code of Federal Regulations § 192.3, or natural or manufactured  
2892 gas storage facility (hereafter, an energy facility) and (ii) an environmental permit for the energy facility  
2893 that is subject to issuance by any agency or board within the Secretariat of Natural Resources, may  
2894 request a pre-application planning and review process. In any such request to the Commission or the  
2895 Secretariat of Natural Resources, the applicant shall identify the proposed energy facility for which it  
2896 requests the pre-application planning and review process. The Commission, the Department of  
2897 Environmental Quality, the Marine Resources Commission, the Department of ~~Game and Inland~~  
2898 ~~Fisheries~~ *Wildlife Resources*, the Department of Historic Resources, the Department of Conservation and  
2899 Recreation, and other appropriate agencies of the Commonwealth shall participate in the pre-application  
2900 planning and review process. Participation in such process shall not limit the authority otherwise  
2901 provided by law to the Commission or other agencies or boards of the Commonwealth. The Commission  
2902 and other participating agencies of the Commonwealth may invite federal and local governmental entities  
2903 charged by law with responsibility for issuing permits or approvals to participate in the pre-application  
2904 planning and review process. Through the pre-application planning and review process, the applicant, the  
2905 Commission, and other agencies and boards shall identify the potential impacts and approvals that may  
2906 be required and shall develop a plan that will provide for an efficient and coordinated review of the  
2907 proposed energy facility. The plan shall include (a) a list of the permits or other approvals likely to be  
2908 required based on the information available, (b) a specific plan and preliminary schedule for the  
2909 different reviews, (c) a plan for coordinating those reviews and the related public comment process, and  
2910 (d) designation of points of contact, either within each agency or for the Commonwealth as a whole, to  
2911 facilitate this coordination. The plan shall be made readily available to the public and shall be  
2912 maintained on a dedicated website to provide current information on the status of each component of the  
2913 plan and each approval process including opportunities for public comment.

2914 I. The provisions of this section shall not apply to the construction and operation of a small  
2915 renewable energy project, as defined in § 10.1-1197.5, by a utility regulated pursuant to this title for  
2916 which the Department of Environmental Quality has issued a permit by rule pursuant to Article 5  
2917 (§ 10.1-1197.5 et seq.) of Chapter 11.1 of Title 10.1.

2918 J. Approval under this section shall not be required for any transmission line for which a certificate  
2919 of public convenience and necessity is not required pursuant to subdivision A of § 56-265.2.

2920 **§ 58.1-344.3. Voluntary contributions of refunds requirements.**

2921 A. 1. For taxable years beginning on and after January 1, 2005, all entities entitled to voluntary  
2922 contributions of tax refunds listed in subsections B and C must have received at least \$10,000 in  
2923 contributions in each of the three previous taxable years for which there is complete data and in which  
2924 such entity was listed on the individual income tax return.

2925 2. In the event that an entity listed in subsections B and C does not satisfy the requirement in  
2926 subdivision 1, such entity shall no longer be listed on the individual income tax return.

2927 3. a. The entities listed in subdivisions B 21 and B 22 as well as any other entities in subsections B  
2928 and C added subsequent to the 2004 Session of the General Assembly shall not appear on the individual  
2929 income tax return until their addition to the individual income tax return results in a maximum of 25  
2930 contributions listed on the return. Such contributions shall be added in the order that they are listed in  
2931 subsections B and C.

2932 b. Each entity added to the income tax return shall appear on the return for at least three consecutive  
2933 taxable years before the requirement in subdivision 1 is applied to such entity.

2934 4. The Department of Taxation shall report annually by the first day of each General Assembly  
2935 Regular Session to the chairmen of the House and Senate Finance Committees the amounts collected for  
2936 each entity listed under subsections B and C for the three most recent taxable years for which there is  
2937 complete data. Such report shall also identify the entities, if any, that will be removed from the  
2938 individual income tax return because they have failed the requirements in subdivision 1, the entities that  
2939 will remain on the individual income tax return, and the entities, if any, that will be added to the  
2940 individual income tax return.

2941 B. Subject to the provisions of subsection A, the following entities entitled to voluntary contributions  
2942 shall appear on the individual income tax return and are eligible to receive tax refund contributions of  
2943 not less than \$1:

2944 1. Nongame wildlife voluntary contribution.

2945 a. All moneys contributed shall be used for the conservation and management of endangered species  
2946 and other nongame wildlife. "Nongame wildlife" includes protected wildlife, endangered and threatened  
2947 wildlife, aquatic wildlife, specialized habitat wildlife both terrestrial and aquatic, and mollusks,  
2948 crustaceans, and other invertebrates under the jurisdiction of the Board of ~~Game and Inland Fisheries~~  
2949 *Wildlife Resources*.



b. All moneys shall be deposited into a special fund known as the Game Protection Fund and which shall be accounted for as a separate part thereof to be designated as the Nongame Cash Fund. All moneys so deposited in the Nongame Cash Fund shall be used by the ~~Commission of Game and Inland Fisheries~~ *Board of Wildlife Resources* for the purposes set forth herein.

2. Open space recreation and conservation voluntary contribution.

a. All moneys contributed shall be used by the Department of Conservation and Recreation to acquire land for recreational purposes and preserve natural areas; to develop, maintain, and improve state park sites and facilities; and to provide funds to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

b. All moneys shall be deposited into a special fund known as the Open Space Recreation and Conservation Fund. The moneys in the fund shall be allocated one-half to the Department of Conservation and Recreation for the purposes stated in subdivision 2 a and one-half to local public bodies pursuant to the Virginia Outdoor Fund Grants Program.

3. Voluntary contribution to political party.

All moneys contributed shall be paid to the State Central Committee of any party that meets the definition of a political party under § 24.2-101 as of July 1 of the previous taxable year. The maximum contribution allowable under this subdivision shall be \$25. In the case of a joint return of husband and wife, each spouse may designate that the maximum contribution allowable be paid.

4. United States Olympic Committee voluntary contribution.

All moneys contributed shall be paid to the United States Olympic Committee.

5. Housing program voluntary contribution.

a. All moneys contributed shall be used by the Department of Housing and Community Development to provide assistance for emergency, transitional, and permanent housing for the homeless; and to provide assistance to housing for the low-income elderly for the physically or mentally disabled.

b. All moneys shall be deposited into a special fund known as the Virginia Tax Check-off for Housing Fund. All moneys deposited in the fund shall be used by the Department of Housing and Community Development for the purposes set forth in this subdivision. Funds made available to the Virginia Tax Check-off for Housing Fund may supplement but shall not supplant activities of the Virginia Housing Trust Fund established pursuant to Chapter 9 (§ 36-141 et seq.) of Title 36 or those of the Virginia Housing Development Authority.

6. Voluntary contributions to the Department for Aging and Rehabilitative Services.

a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled.

b. All moneys shall be deposited into a special fund known as the Transportation Services for the Elderly and Disabled Fund. All moneys so deposited in the fund shall be used by the Department for Aging and Rehabilitative Services for the enhancement of transportation services for the elderly and disabled. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to this subdivision annually to the Secretary of Health and Human Resources.

7. Voluntary contribution to the Community Policing Fund.

a. All moneys contributed shall be used to provide grants to local law-enforcement agencies for the purchase of equipment or the support of services, as approved by the Criminal Justice Services Board, relating to community policing.

b. All moneys shall be deposited into a special fund known as the Community Policing Fund. All moneys deposited in such fund shall be used by the Department of Criminal Justices Services for the purposes set forth herein.

8. Voluntary contribution to promote the arts.

All moneys contributed shall be used by the Virginia Arts Foundation to assist the Virginia Commission for the Arts in its statutory responsibility of promoting the arts in the Commonwealth. All moneys shall be deposited into a special fund known as the Virginia Arts Foundation Fund.

9. Voluntary contribution to the Historic Resources Fund.

All moneys contributed shall be deposited in the Historic Resources Fund established pursuant to § 10.1-2202.1.

10. Voluntary contribution to the Virginia Foundation for the Humanities and Public Policy.

All moneys contributed shall be paid to the Virginia Foundation for the Humanities and Public Policy. All moneys shall be deposited into a special fund known as the Virginia Humanities Fund.

11. Voluntary contribution to the Center for Governmental Studies.

All moneys contributed shall be paid to the Center for Governmental Studies, a public service and research center of the University of Virginia. All moneys shall be deposited into a special fund known as the Governmental Studies Fund.

12. Voluntary contribution to the Law and Economics Center.

3011 All moneys contributed shall be paid to the Law and Economics Center, a public service and  
3012 research center of George Mason University. All moneys shall be deposited into a special fund known  
3013 as the Law and Economics Fund.

3014 13. Voluntary contribution to Children of America Finding Hope.

3015 All moneys contributed shall be used by Children of America Finding Hope (CAFH) in its programs  
3016 which are designed to reach children with emotional and physical needs.

3017 14. Voluntary contribution to 4-H Educational Centers.

3018 All moneys contributed shall be used by the 4-H Educational Centers throughout the Commonwealth  
3019 for their (i) educational, leadership, and camping programs and (ii) operational and capital costs. The  
3020 State Treasurer shall pay the moneys to the Virginia 4-H Foundation in Blacksburg, Virginia.

3021 15. Voluntary contribution to promote organ and tissue donation.

3022 a. All moneys contributed shall be used by the Virginia Transplant Council to assist in its statutory  
3023 responsibility of promoting and coordinating educational and informational activities as related to the  
3024 organ, tissue, and eye donation process and transplantation in the Commonwealth of Virginia.

3025 b. All moneys shall be deposited into a special fund known as the Virginia Donor Registry and  
3026 Public Awareness Fund. All moneys deposited in such fund shall be used by the Virginia Transplant  
3027 Council for the purposes set forth herein.

3028 16. Voluntary contributions to the Virginia War Memorial division of the Department of Veterans  
3029 Services and the National D-Day Memorial Foundation.

3030 All moneys contributed shall be used by the Virginia War Memorial division of the Department of  
3031 Veterans Services and the National D-Day Memorial Foundation in their work through each of their  
3032 respective memorials. The State Treasurer shall divide the moneys into two equal portions and pay one  
3033 portion to the Virginia War Memorial division of the Department of Veterans Services and the other  
3034 portion to the National D-Day Memorial Foundation.

3035 17. Voluntary contribution to the Virginia Federation of Humane Societies.

3036 All moneys contributed shall be paid to the Virginia Federation of Humane Societies to assist in its  
3037 mission of saving, caring for, and finding homes for homeless animals.

3038 18. Voluntary contribution to the Tuition Assistance Grant Fund.

3039 a. All moneys contributed shall be paid to the Tuition Assistance Grant Fund for use in providing  
3040 monetary assistance to residents of the Commonwealth who are enrolled in undergraduate or graduate  
3041 programs in private Virginia colleges.

3042 b. All moneys shall be deposited into a special fund known as the Tuition Assistance Grant Fund.  
3043 All moneys so deposited in the Fund shall be administered by the State Council of Higher Education for  
3044 Virginia in accordance with and for the purposes provided under the Tuition Assistance Grant Act  
3045 (§ 23.1-628 et seq.).

3046 19. Voluntary contribution to the Spay and Neuter Fund.

3047 All moneys contributed shall be paid to the Spay and Neuter Fund for use by localities in the  
3048 Commonwealth for providing low-cost spay and neuter surgeries through direct provision or contract or  
3049 each locality may make the funds available to any private, nonprofit sterilization program for dogs and  
3050 cats in such locality. The Tax Commissioner shall determine annually the total amounts designated on  
3051 all returns from each locality in the Commonwealth, based upon the locality that each filer who makes a  
3052 voluntary contribution to the Fund lists as his permanent address. The State Treasurer shall pay the  
3053 appropriate amount to each respective locality.

3054 20. Voluntary contribution to the Virginia Commission for the Arts.

3055 All moneys contributed shall be paid to the Virginia Commission for the Arts.

3056 21. Voluntary contribution for the Department of Emergency Management.

3057 All moneys contributed shall be paid to the Department of Emergency Management.

3058 22. Voluntary contribution for the cancer centers in the Commonwealth.

3059 All moneys contributed shall be paid equally to all entities in the Commonwealth that officially have  
3060 been designated as cancer centers by the National Cancer Institute.

3061 23. Voluntary contribution to the Brown v. Board of Education Scholarship Program Fund.

3062 a. All moneys contributed shall be paid to the Brown v. Board of Education Scholarship Program  
3063 Fund to support the work of and generate nonstate funds to maintain the Brown v. Board of Education  
3064 Scholarship Program.

3065 b. All moneys shall be deposited into the Brown v. Board of Education Scholarship Program Fund as  
3066 established in § 30-231.4.

3067 c. All moneys so deposited in the Fund shall be administered by the State Council of Higher  
3068 Education in accordance with and for the purposes provided in Chapter 34.1 (§ 30-231.01 et seq.) of  
3069 Title 30.

3070 24. Voluntary contribution to the Martin Luther King, Jr. Living History and Public Policy Center.

3071 All moneys contributed shall be paid to the Board of Trustees of the Martin Luther King, Jr. Living  
3072 History and Public Policy Center.

25. Voluntary contribution to the Virginia Caregivers Grant Fund.  
All moneys contributed shall be paid to the Virginia Caregivers Grant Fund established pursuant to § 63.2-2202.
26. Voluntary contribution to public library foundations.  
All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each public library foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective public library foundation.
27. Voluntary contribution to Celebrating Special Children, Inc.  
All moneys contributed shall be paid to Celebrating Special Children, Inc. and shall be deposited into a special fund known as the Celebrating Special Children, Inc. Fund.
28. Voluntary contributions to the Department for Aging and Rehabilitative Services.  
a. All moneys contributed shall be used by the Department for Aging and Rehabilitative Services for providing Medicare Part D counseling to the elderly and disabled.  
b. All moneys shall be deposited into a special fund known as the Medicare Part D Counseling Fund. All moneys so deposited shall be used by the Department for Aging and Rehabilitative Services to provide counseling for the elderly and disabled concerning Medicare Part D. The Department for Aging and Rehabilitative Services shall conduct an annual audit of the moneys received pursuant to this subdivision and shall provide an evaluation of all programs funded pursuant to the subdivision to the Secretary of Health and Human Resources.
29. Voluntary contribution to community foundations.  
All moneys contributed pursuant to this subdivision shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for each community foundation and shall report the same to the State Treasurer. The State Treasurer shall pay the appropriate amount to the respective community foundation. A "community foundation" shall be defined as any institution that meets the membership requirements for a community foundation established by the Council on Foundations.
30. Voluntary contribution to the Virginia Foundation for Community College Education.  
a. All moneys contributed shall be paid to the Virginia Foundation for Community College Education for use in providing monetary assistance to Virginia residents who are enrolled in comprehensive community colleges in Virginia.  
b. All moneys shall be deposited into a special fund known as the Virginia Foundation for Community College Education Fund. All moneys so deposited in the Fund shall be administered by the Virginia Foundation for Community College Education in accordance with and for the purposes provided under the Community College Incentive Scholarship Program (former § 23-220.2 et seq.).
31. Voluntary contribution to the Middle Peninsula Chesapeake Bay Public Access Authority.  
All moneys contributed shall be paid to the Middle Peninsula Chesapeake Bay Public Access Authority to be used for the purposes described in § 15.2-6601.
32. Voluntary contribution to the Breast and Cervical Cancer Prevention and Treatment Fund.  
All moneys contributed shall be paid to the Breast and Cervical Cancer Prevention and Treatment Fund established pursuant to § 32.1-368.
33. Voluntary contribution to the Virginia Aquarium and Marine Science Center.  
All moneys contributed shall be paid to the Virginia Aquarium and Marine Science Center for use in its mission to increase the public's knowledge and appreciation of Virginia's marine environment and inspire commitment to preserve its existence.
34. Voluntary contribution to the Virginia Capitol Preservation Foundation.  
All moneys contributed shall be paid to the Virginia Capitol Preservation Foundation for use in its mission in supporting the ongoing restoration, preservation, and interpretation of the Virginia Capitol and Capitol Square.
35. Voluntary contribution for the Secretary of Veterans and Defense Affairs.  
All moneys contributed shall be paid to the Office of the Secretary of Veterans and Defense Affairs for related programs and services.
- C. Subject to the provisions of subsection A, the following voluntary contributions shall appear on the individual income tax return and are eligible to receive tax refund contributions or by making payment to the Department if the individual is not eligible to receive a tax refund pursuant to § 58.1-309 or if the amount of such tax refund is less than the amount of the voluntary contribution:
1. Voluntary contribution to the Family and Children's Trust Fund of Virginia.  
All moneys contributed shall be paid to the Family and Children's Trust Fund of Virginia.
  2. Voluntary Chesapeake Bay restoration contribution.  
a. All moneys contributed shall be used to help fund Chesapeake Bay and its tributaries restoration activities in accordance with tributary plans developed pursuant to Article 7 (§ 2.2-215 et seq.) of

3134 Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed Implementation Plan submitted by the  
3135 Commonwealth of Virginia to the U.S. Environmental Protection Agency on November 29, 2010, and  
3136 any subsequent revisions thereof.

3137 b. The Tax Commissioner shall annually determine the total amount of voluntary contributions and  
3138 shall report the same to the State Treasurer, who shall credit that amount to a special nonreverting fund  
3139 to be administered by the Office of the Secretary of Natural Resources. All moneys so deposited shall  
3140 be used for the purposes of providing grants for the implementation of tributary plans developed  
3141 pursuant to Article 7 (§ 2.2-215 et seq.) of Chapter 2 of Title 2.2 or the Chesapeake Bay Watershed  
3142 Implementation Plan submitted by the Commonwealth of Virginia to the U.S. Environmental Protection  
3143 Agency on November 29, 2010, and any subsequent revisions thereof.

3144 c. No later than November 1 of each year, the Secretary of Natural Resources shall submit a report  
3145 to the House Committee on Agriculture, Chesapeake and Natural Resources; the Senate Committee on  
3146 Agriculture, Conservation and Natural Resources; the House Committee on Appropriations; the Senate  
3147 Committee on Finance; and the Virginia delegation to the Chesapeake Bay Commission, describing the  
3148 grants awarded from moneys deposited in the fund. The report shall include a list of grant recipients, a  
3149 description of the purpose of each grant, the amount received by each grant recipient, and an assessment  
3150 of activities or initiatives supported by each grant. The report shall be posted on a website maintained  
3151 by the Secretary of Natural Resources, along with a cumulative listing of previous grant awards  
3152 beginning with awards granted on or after July 1, 2014.

3153 3. Voluntary Jamestown-Yorktown Foundation Contribution.

3154 All moneys contributed shall be used by the Jamestown-Yorktown Foundation for the Jamestown  
3155 2007 quadricentennial celebration. All moneys shall be deposited into a special fund known as the  
3156 Jamestown Quadricentennial Fund. This subdivision shall be effective for taxable years beginning before  
3157 January 1, 2008.

3158 4. State forests voluntary contribution.

3159 a. All moneys contributed shall be used for the development and implementation of conservation and  
3160 education initiatives in the state forests system.

3161 b. All moneys shall be deposited into a special fund known as the State Forests System Fund,  
3162 established pursuant to § 10.1-1119.1. All moneys so deposited in such fund shall be used by the State  
3163 Forester for the purposes set forth herein.

3164 5. Voluntary contributions to Uninsured Medical Catastrophe Fund.

3165 All moneys contributed shall be paid to the Uninsured Medical Catastrophe Fund established  
3166 pursuant to § 32.1-324.2, such funds to be used for the treatment of Virginians sustaining uninsured  
3167 medical catastrophes.

3168 6. Voluntary contribution to local school divisions.

3169 a. All moneys contributed shall be used by a specified local public school foundation as created by  
3170 and for the purposes stated in § 22.1-212.2:2.

3171 b. All moneys collected pursuant to subdivision 6 a or through voluntary payments by taxpayers  
3172 designated for a local public school foundation over refundable amounts shall be deposited into the state  
3173 treasury. The Tax Commissioner shall determine annually the total amounts designated on all returns for  
3174 each public school foundation and shall report the same to the State Treasurer. The State Treasurer shall  
3175 pay the appropriate amount to the respective public school foundation.

3176 c. In order for a public school foundation to be eligible to receive contributions under this section,  
3177 school boards must notify the Department during the taxable year in which they want to participate prior  
3178 to the deadlines and according to procedures established by the Tax Commissioner.

3179 7. Voluntary contribution to Home Energy Assistance Fund.

3180 All moneys contributed shall be paid to the Home Energy Assistance Fund established pursuant to  
3181 § 63.2-805, such funds to be used to assist low-income Virginians in meeting seasonal residential energy  
3182 needs.

3183 8. Voluntary contribution to the Virginia Military Family Relief Fund.

3184 a. All moneys contributed shall be paid to the Virginia Military Family Relief Fund for use in  
3185 providing assistance to military service personnel on active duty and their families for living expenses  
3186 including, but not limited to, food, housing, utilities, and medical services.

3187 b. All moneys shall be deposited into a special fund known as the Virginia Military Family Relief  
3188 Fund, established and administered pursuant to § 44-102.2.

3189 9. Voluntary contribution to the Federation of Virginia Food Banks.

3190 All moneys contributed shall be paid to the Federation of Virginia Food Banks, a Partner State  
3191 Association of Feeding America. The Federation of Virginia Food Banks shall as soon as practicable  
3192 make an equitable distribution of all such moneys to the Blue Ridge Area Food Bank, Capital Area  
3193 Food Bank, Feeding America Southwest Virginia, FeedMore, Inc., Foodbank of Southeastern Virginia  
3194 and the Eastern Shore, Fredericksburg Area Food Bank, or Virginia Peninsula Foodbank.

3195 The Secretary of Finance may request records or receipts of all distributions by the Federation of

Virginia Food Banks of such moneys contributed for purposes of ensuring compliance with the requirements of this subdivision.

D. Unless otherwise specified and subject to the requirements in § 58.1-344.2, all moneys collected for each entity in subsections B and C shall be deposited into the state treasury. The Tax Commissioner shall determine annually the total amount designated for each entity in subsections B and C on all individual income tax returns and shall report the same to the State Treasurer, who shall credit that amount to each entity's respective special fund.

**§ 58.1-1405. Time for payment of tax.**

A. Except as provided in paragraph B of this section, the tax levied pursuant to this chapter shall be paid by the purchaser or user of such watercraft and collected by the Tax Commissioner at the time the owner is required to apply to the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* for a title. Except as otherwise provided in § 58.1-1404, no title shall be issued unless the applicant for title shows to the satisfaction of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* that such tax has been paid.

B. The tax on the gross receipts from the lease or charter of watercraft shall be paid by the registered dealer collecting such receipts to the Commissioner on or before the twentieth day of each month following the month in which such receipts were collected.

**§ 58.1-1410. Disposition of funds.**

Funds collected hereunder by the Tax Commissioner shall be paid into the general fund of the state treasury and allocated to the game protection fund in the following manner:

For Fiscal Year	Percentage of Collections
1996	50%
1997	50%
1998	50%
1999	75%
2000 and thereafter	100%

Not later than thirty days after the close of each quarter, the Comptroller shall transfer to the game protection fund the appropriate percentage of collections to be dedicated to such fund. The Comptroller may make such adjustments as necessary in subsequent quarters subject to the audit report of the Auditor of Public Accounts.

Such funds shall be made available only to the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources* for the following: boating-related activities and expenses, and to enhance and improve recreation opportunities for boaters, including but not limited to land acquisition, capital projects, maintenance, and facilities for boating access to the waters of the Commonwealth; boating safety law enforcement, including salaries, benefits, equipment and overtime expenses for conservation police officers so assigned; boating and other aquatic resource educational activities, including personnel, and education and safety materials; boating-related expenses for required reporting to federal and state officials; information management costs, including personnel, hardware, and software needed to better serve boating customers; and related administrative costs for boating-related activities, including human resources, accounting, public relations, administration and facilities to support and house necessary boating-related personnel and equipment.

**§ 58.1-2289. Disposition of tax revenue generally.**

A. Unless otherwise provided in this section, all taxes and fees, including civil penalties, collected by the Commissioner pursuant to this chapter, less a reasonable amount to be allocated for refunds, shall be promptly paid into the state treasury and shall constitute special funds within the Commonwealth Transportation Fund. Any balances remaining in these funds at the end of the year shall be available for use in subsequent years for the purposes set forth in this chapter, and any interest income on such funds shall accrue to these funds.

The Governor is hereby authorized to transfer out of such fund an amount necessary for the inspection of gasoline and motor grease measuring and distributing equipment, and for the inspection and analysis of gasoline for purity.

B. The tax collected on each gallon of aviation fuel sold and delivered or used in this Commonwealth, less refunds, shall be paid into a special fund of the state treasury. Proceeds of this special fund within the Commonwealth Transportation Fund shall be disbursed upon order of the Department of Aviation, on warrants of the Comptroller, to defray the cost of the administration of the laws of this Commonwealth relating to aviation, for the construction, maintenance and improvement of airports and landing fields to which the public now has or which it is proposed shall have access, and for the promotion of aviation in the interest of operators and the public generally.

C. One-half cent of the tax collected on each gallon of fuel on which a refund has been paid for gasoline, gasohol, diesel fuel, blended fuel, or alternative fuel, for fuel consumed in tractors and unlicensed equipment used for agricultural purposes shall be paid into a special fund of the state treasury, known as the Virginia Agricultural Foundation Fund, to be disbursed to make certain refunds

3258 and defray the costs of the research and educational phases of the agricultural program, including  
3259 supplemental salary payments to certain employees at Virginia Polytechnic Institute and State University,  
3260 the Department of Agriculture and Consumer Services and the Virginia Truck and Ornamentals Research  
3261 Station, including reasonable expenses of the Virginia Agricultural Council.

3262 D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial  
3263 watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of  
3264 the state treasury to be made available to the Board of ~~Game and Inland Fisheries~~ *Wildlife Resources*  
3265 until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition,  
3266 construction, improvement and maintenance of public boating access areas on the public waters of this  
3267 Commonwealth and for other activities and purposes of direct benefit and interest to the boating public  
3268 and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial  
3269 fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be  
3270 used for the construction, repair, improvement and maintenance of the public docks of this  
3271 Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction,  
3272 improvement and maintenance of the public docks shall be made according to a plan developed by the  
3273 Virginia Marine Resources Commission.

3274 From the tax collected pursuant to the provisions of this chapter from the sales of gasoline used for  
3275 the propelling of watercraft, after deduction for lawful refunds, there shall be paid into the state treasury  
3276 for use by the Marine Resources Commission, the Virginia Soil and Water Conservation Board, the  
3277 State Water Control Board, and the Commonwealth Transportation Board to (i) improve the public  
3278 docks as specified in this section, (ii) improve commercial and sports fisheries in Virginia's tidal waters,  
3279 (iii) make environmental improvements including, without limitation, fisheries management and habitat  
3280 enhancement in the Chesapeake and its tributaries, and (iv) further the purposes set forth in § 33.2-1510,  
3281 a sum as established by the General Assembly.

3282 E. Of the remaining revenues deposited into the Commonwealth Transportation Fund pursuant to this  
3283 chapter less refunds authorized by this chapter: (i) 80 percent shall be deposited into the Highway  
3284 Maintenance and Operating Fund established pursuant to § 33.2-1530, (ii) 11.3 percent shall be  
3285 deposited into the Transportation Trust Fund established pursuant to § 33.2-1524, (iii) four percent shall  
3286 be deposited into the Priority Transportation Fund, (iv) 3.7 percent shall be deposited into the  
3287 Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638, and (v) one  
3288 percent shall be transferred to a special fund within the Commonwealth Transportation Fund in the state  
3289 treasury, to be used to meet the necessary expenses of the Department of Motor Vehicles.

3290 **§ 58.1-3510.4. Short-term rental property; short-term rental businesses.**

3291 A. For purposes of this article, "short-term rental property" means all tangible personal property held  
3292 for rental and owned by a person engaged in the short-term rental business as defined in subsection B,  
3293 excluding (i) trailers as defined in § 46.2-100, and (ii) other tangible personal property required to be  
3294 licensed or registered with the Department of Motor Vehicles, Department of ~~Game and Inland Fisheries~~  
3295 *Wildlife Resources*, or Department of Aviation.

3296 Short-term rental property shall constitute a classification of merchants' capital that is separate from  
3297 other classifications of merchants' capital. For local property taxation purposes, the governing body of  
3298 any county, city, or town may tax short-term rental property pursuant to § 58.1-3509 or may impose the  
3299 tax authorized under § 58.1-3510.6, but not both.

3300 B. A person is engaged in the short-term rental business if:

3301 1. Not less than 80 percent of the gross rental receipts of such business during the preceding year  
3302 arose from transactions involving the rental of short-term rental property, other than heavy equipment  
3303 property as defined in subdivision 2, for periods of 92 consecutive days or less, including all extensions  
3304 and renewals to the same person or a person affiliated with the lessee; or

3305 2. Not less than 60 percent of the gross rental receipts of such business during the preceding year  
3306 arose from transactions involving the rental of heavy equipment property for periods of 270 consecutive  
3307 days or less, including all extensions and renewals to the same person or a person affiliated with the  
3308 lessee. For the purposes of this subdivision, "heavy equipment property" means rental property of an  
3309 industry that is described under code 532412 or 532490 of the 2002 North American Industry  
3310 Classification System as published by the United States Census Bureau, excluding office furniture, office  
3311 equipment, and programmable computer equipment and peripherals as defined in § 58.1-3503 A 16.

3312 C. For purposes of determining whether a person is engaged in the short-term rental business as  
3313 defined in subsection B, (i) a person is "affiliated" with the lessee of rental property if such person is an  
3314 officer, director, partner, member, shareholder, parent or subsidiary of the lessee, or if such person and  
3315 the lessee have any common ownership interest in excess of five percent, (ii) any rental to a person  
3316 affiliated with the lessee shall be treated as rental receipts but shall not qualify for purposes of the 80  
3317 percent requirement of subdivision 1 of subsection B or the 60 percent requirement of subdivision 2 of  
3318 subsection B, and (iii) any rental of personal property which also involves the provision of personal  
3319 services for the operation of the personal property rented shall not be treated as gross receipts from

rental, provided however that the delivery and installation of tangible personal property shall not mean operation for the purposes of this subdivision.

D. A person who has not previously been engaged in the short-term rental business who applies for a certificate of registration pursuant to § 58.1-3510.5 shall be eligible for registration upon his certification that he anticipates meeting the requirements of a specific subdivision of subsection B, designated by the applicant at the time of application, during the year for which registration is sought.

E. In the event that the commissioner of the revenue makes a written determination that a rental business previously certified as short-term rental business pursuant to § 58.1-3510.5 has failed to meet either of the tests set forth in subsection B during a preceding tax year, such business shall lose its certification as a short-term rental business and shall be subject to the business personal property tax with respect to all rental property for the tax year in which such certification is lost and any subsequent tax years until such time as the rental business obtains recertification pursuant to § 58.1-3510.5. In the event that a rental business loses its certification as a short-term rental business pursuant to this subsection, such business shall not be required to refund to customers daily rental property taxes previously collected in good faith and shall not be subject to assessment for business personal property taxes with respect to rental property for tax years preceding the year in which the certification is lost unless the commissioner makes a written determination that the business obtained its certification by knowingly making materially false statements in its application, in which case the commissioner may assess the taxpayer the amount of the difference between short-term rental property taxes remitted by such business during the period in which the taxpayer wrongfully held certification and the business personal property taxes that would have been due during such period but for the certification obtained by the making of the materially false statements. Any such assessment, and any determination not to certify or to decertify a rental business as a short-term rental business as defined in this subsection, may be appealed pursuant to the procedures and requirements set forth in § 58.1-3983.1 for appeals of local business taxes, which shall apply mutatis mutandis to such assessments and certification decisions.

F. A rental business that has been decertified pursuant to the provisions of subsection E shall be eligible for recertification for a subsequent tax year upon a showing that it has met one of the tests provided in subsection B for at least ten months of operations during the present tax year.

**§ 58.1-3942. Security interests no bar to distress.**

A. No security interest in goods or chattels shall prevent the same from being distrained and sold for taxes or levies assessed thereon, no matter in whose possession they may be found.

B. Prior to such sale for distress, the treasurer, sheriff, constable or collector, or other party conducting the sale shall give notice to any secured party of record as his name and address shall appear on the records of the Department of Motor Vehicles, the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, the State Corporation Commission, or in the office of the clerk of any circuit court where the debtor has resided to the knowledge of the party to whom the tax is owing during a one-year period prior to the sale. Notice shall also be given to any secured party of whom the party to whom the tax is owing shall have knowledge.

C. A security interest perfected prior to any distraint for taxes shall have priority over all taxes, except those specifically assessed either per item or in bulk against the goods and chattels so assessed. Taxes specifically assessed either per item or in bulk against goods and chattels shall constitute a lien against the property so assessed and shall have priority over all security interests. For purposes of this section, a merchant's capital tax shall be deemed to be specifically assessed against all inventory in the merchant's possession at the time of distraint, or at the time such inventory is repossessed by the holder of a security interest therein. For purposes of this section, taxes specifically assessed in bulk means an assessment against the specific class of property distrained.

D. The title conveyed to the purchaser of goods and chattels at a sale for taxes specifically assessed either per item or in bulk against such goods and chattels distrained shall be free of all claims of any creditor, including the claims of any secured party of record, provided that notice was given to such creditor as required by subsection B. The person conducting the sale shall apply the proceeds of the sale first to unpaid taxes, penalty, and accrued interest, and then to the claims of secured parties of record, in the order of their priority, before delivering any sum remaining to the person or estate assessed with taxes.

E. Notwithstanding any provision of this section to the contrary, no highway vehicle as defined in § 58.1-3941 purchased by a bona fide purchaser for value from the person or estate assessed with taxes shall be liable to levy or distress for such taxes unless the purchaser knew at the time of purchase that the taxes had been specifically assessed against such vehicle.

F. The purchaser of a motor vehicle sold under this section shall receive a sales receipt and an affidavit of the treasurer, sheriff, constable or collector, or other party conducting the sale affirming that he has complied with the provisions of this section, and shall be entitled to apply to and receive from the Department of Motor Vehicles a certificate of title and registration card for the vehicle.

3381 **§ 59.1-148.3. Purchase of handguns or other weapons of certain officers.**

3382 A. The Department of State Police, the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*,  
3383 the Virginia Alcoholic Beverage Control Authority, the Virginia Lottery, the Marine Resources  
3384 Commission, the Capitol Police, the Department of Conservation and Recreation, the Department of  
3385 Forestry, any sheriff, any regional jail board or authority, and any local police department may allow  
3386 any full-time sworn law-enforcement officer, deputy, or regional jail officer, a local fire department may  
3387 allow any full-time sworn fire marshal, the Department of Motor Vehicles may allow any  
3388 law-enforcement officer, any institution of higher learning named in § 23.1-1100 may allow any campus  
3389 police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, retiring on  
3390 or after July 1, 1991, and the Department of Corrections may allow any employee with internal  
3391 investigations authority designated by the Department of Corrections pursuant to subdivision 11 of  
3392 § 53.1-10 who retires (i) after at least 10 years of service, (ii) at 70 years of age or older, or (iii) as a  
3393 result of a service-incurred disability or who is receiving long-term disability payments for a  
3394 service-incurred disability with no expectation of returning to the employment where he incurred the  
3395 disability to purchase the service handgun issued or previously issued to him by the agency or institution  
3396 at a price of \$1. If the previously issued weapon is no longer available, a weapon of like kind may be  
3397 substituted for that weapon. This privilege shall also extend to any former Superintendent of the  
3398 Department of State Police who leaves service after a minimum of five years. This privilege shall also  
3399 extend to any person listed in this subsection who is eligible for retirement with at least 10 years of  
3400 service who resigns on or after July 1, 1991, in good standing from one of the agencies listed in this  
3401 section to accept a position covered by the Virginia Retirement System. Other weapons issued by the  
3402 agencies listed in this subsection for personal duty use of an officer may, with approval of the agency  
3403 head, be sold to the officer subject to the qualifications of this section at a fair market price determined  
3404 as in subsection B, so long as the weapon is a type and configuration that can be purchased at a regular  
3405 hardware or sporting goods store by a private citizen without restrictions other than the instant  
3406 background check.

3407 B. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer who  
3408 retires with five or more years of service, but less than 10, to purchase the service handgun issued to  
3409 him by the agency at a price equivalent to the weapon's fair market value on the date of the officer's  
3410 retirement. Any full-time sworn law-enforcement officer employed by any of the agencies listed in  
3411 subsection A who is retired for disability as a result of a nonservice-incurred disability may purchase the  
3412 service handgun issued to him by the agency at a price equivalent to the weapon's fair market value on  
3413 the date of the officer's retirement. Determinations of fair market value may be made by reference to a  
3414 recognized pricing guide.

3415 C. The agencies listed in subsection A may allow the immediate survivor of any full-time sworn  
3416 law-enforcement officer (i) who is killed in the line of duty or (ii) who dies in service and has at least  
3417 10 years of service to purchase the service handgun issued to the officer by the agency at a price of \$1.

3418 D. The governing board of any institution of higher learning named in § 23.1-1100 may allow any  
3419 campus police officer appointed pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1  
3420 who retires on or after July 1, 1991, to purchase the service handgun issued to him at a price equivalent  
3421 to the weapon's fair market value on the date of the officer's retirement. Determinations of fair market  
3422 value may be made by reference to a recognized pricing guide.

3423 E. Any officer who at the time of his retirement is a full-time sworn law-enforcement officer with a  
3424 state agency listed in subsection A, when the agency allows purchases of service handguns, and who  
3425 retires after 10 years of state service, even if a portion of his service was with another state agency, may  
3426 purchase the service handgun issued to him by the agency from which he retires at a price of \$1.

3427 F. The sheriff of Hanover County may allow any auxiliary or volunteer deputy sheriff with a  
3428 minimum of 10 years of service, upon leaving office, to purchase for \$1 the service handgun issued to  
3429 him.

3430 G. Any sheriff or local police department may allow any auxiliary law-enforcement officer with more  
3431 than 10 years of service to purchase the service handgun issued to him by the agency at a price that is  
3432 equivalent to or less than the weapon's fair market value on the date of purchase by the officer.

3433 H. The agencies listed in subsection A may allow any full-time sworn law-enforcement officer  
3434 currently employed by the agency to purchase his service handgun, with the approval of the chief  
3435 law-enforcement officer of the agency, at a fair market price. This subsection shall only apply when the  
3436 agency has purchased new service handguns for its officers, and the handgun subject to the sale is no  
3437 longer used by the agency or officer in the course of duty.

3438 **§ 62.1-44.15. (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c.**  
3439 **345) Powers and duties; civil penalties.**

3440 It shall be the duty of the Board and it shall have the authority:

3441 (1) [Repealed.]

3442 (2) To study and investigate all problems concerned with the quality of state waters and to make



reports and recommendations.

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

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

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

(3a) To establish such standards of quality and policies for any state waters consistent with the general policy set forth in this chapter, and to modify, amend or cancel any such standards or policies established and to take all appropriate steps to prevent quality alteration contrary to the public interest or to standards or policies thus established, except that a description of provisions of any proposed standard or policy adopted by 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 standard or policy are most properly referable. The Board shall, from time to time, but at least once every three years, hold public hearings pursuant to § 2.2-4007.01 but, upon the request of an affected 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. However, to the extent allowed by federal law, any person holding a certificate issued by the Board that is intending to upgrade the permitted facility by installing technology, control equipment, or other apparatus that the permittee demonstrates to the satisfaction of the Director will result in improved energy efficiency, reduction in the amount of nutrients discharged, and improved water quality shall not be required to obtain a new, modified, or amended permit. The permit holder shall provide the demonstration anticipated by this subdivision to the Department no later than 30 days prior to commencing construction.

(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 to ensure compliance with statutory, regulatory, and permit requirements. 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

3504 application for a new permit has been timely filed as required by the regulations of the Board and the  
3505 Board is unable, through no fault of the permittee, to issue a new permit before the expiration date of  
3506 the previous permit.

3507 (5b) Any certificate issued by the Board under this chapter may, after notice and opportunity for a  
3508 hearing, be amended or revoked on any of the following grounds or for good cause as may be provided  
3509 by the regulations of the Board:

3510 1. The owner has violated any regulation or order of the Board, any condition of a certificate, any  
3511 provision of this chapter, or any order of a court, where such violation results in a release of harmful  
3512 substances into the environment or poses a substantial threat of release of harmful substances into the  
3513 environment or presents a hazard to human health or the violation is representative of a pattern of  
3514 serious or repeated violations which, in the opinion of the Board, demonstrates the owner's disregard for  
3515 or inability to comply with applicable laws, regulations, or requirements;

3516 2. The owner has failed to disclose fully all relevant material facts or has misrepresented a material  
3517 fact in applying for a certificate, or in any other report or document required under this law or under the  
3518 regulations of the Board;

3519 3. The activity for which the certificate was issued endangers human health or the environment and  
3520 can be regulated to acceptable levels by amendment or revocation of the certificate; or

3521 4. There exists a material change in the basis on which the permit was issued that requires either a  
3522 temporary or a permanent reduction or elimination of any discharge controlled by the certificate  
3523 necessary to protect human health or the environment.

3524 (5c) Any certificate issued by the Board under this chapter relating to dredging projects governed  
3525 under Chapter 12 (§ 28.2-1200 et seq.) or Chapter 13 (§ 28.2-1300 et seq.) of Title 28.2 may be  
3526 conditioned upon a demonstration of financial responsibility for the completion of compensatory  
3527 mitigation requirements. Financial responsibility may be demonstrated by a letter of credit, a certificate  
3528 of deposit or a performance bond executed in a form approved by the Board. If the U.S. Army Corps of  
3529 Engineers requires demonstration of financial responsibility for the completion of compensatory  
3530 mitigation required for a particular project, then the mechanism and amount approved by the U.S. Army  
3531 Corps of Engineers shall be used to meet this requirement.

3532 (6) To make investigations and inspections, to ensure compliance with any certificates, standards,  
3533 policies, rules, regulations, rulings and special orders which it may adopt, issue or establish and to  
3534 furnish advice, recommendations, or instructions for the purpose of obtaining such compliance. In  
3535 recognition of §§ 32.1-164 and 62.1-44.18, the Board and the State Department of Health shall enter into  
3536 a memorandum of understanding establishing a common format to consolidate and simplify inspections  
3537 of sewage treatment plants and coordinate the scheduling of the inspections. The new format shall  
3538 ensure that all sewage treatment plants are inspected at appropriate intervals in order to protect water  
3539 quality and public health and at the same time avoid any unnecessary administrative burden on those  
3540 being inspected.

3541 (7) To adopt rules governing the procedure of the Board with respect to: (a) hearings; (b) the filing  
3542 of reports; (c) the issuance of certificates and special orders; and (d) all other matters relating to  
3543 procedure; and to amend or cancel any rule adopted. Public notice of every rule adopted under this  
3544 section shall be by such means as the Board may prescribe.

3545 (8a) Except as otherwise provided in Articles 2.4 (§ 62.1-44.15:51 et seq.) and 2.5 (§ 62.1-44.15:67  
3546 et seq.) issue special orders to owners (i) who are permitting or causing the pollution, as defined by §  
3547 62.1-44.3, of state waters to cease and desist from such pollution, (ii) who have failed to construct  
3548 facilities in accordance with final approved plans and specifications to construct such facilities in  
3549 accordance with final approved plans and specifications, (iii) who have violated the terms and provisions  
3550 of a certificate issued by the Board to comply with such terms and provisions, (iv) who have failed to  
3551 comply with a directive from the Board to comply with such directive, (v) who have contravened duly  
3552 adopted and promulgated water quality standards and policies to cease and desist from such  
3553 contravention and to comply with such water quality standards and policies, (vi) who have violated the  
3554 terms and provisions of a pretreatment permit issued by the Board or by the owner of a publicly owned  
3555 treatment works to comply with such terms and provisions or (vii) who have contravened any applicable  
3556 pretreatment standard or requirement to comply with such standard or requirement; and also to issue  
3557 such orders to require any owner to comply with the provisions of this chapter and any decision of the  
3558 Board. Except as otherwise provided by a separate article, orders issued pursuant to this subsection may  
3559 include civil penalties of up to \$32,500 per violation, not to exceed \$100,000 per order. The Board may  
3560 assess penalties under this subsection if (a) the person has been issued at least two written notices of  
3561 alleged violation by the Department for the same or substantially related violations at the same site, (b)  
3562 such violations have not been resolved by demonstration that there was no violation, by an order issued  
3563 by the Board or the Director, or by other means, (c) at least 130 days have passed since the issuance of  
3564 the first notice of alleged violation, and (d) there is a finding that such violations have occurred after a  
3565 hearing conducted in accordance with subdivision (8b). The actual amount of any penalty assessed shall

be 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. The Board shall provide the person with the calculation for the proposed penalty prior to any hearing conducted for the issuance of an order that assesses penalties pursuant to this subsection. The issuance of a notice of alleged violation by the Department shall not be considered a case decision as defined in § 2.2-4001. Any notice of alleged violation shall include a description of each violation, the specific provision of law violated, and information on the process for obtaining a final decision or fact finding from the Department on whether or not a violation has occurred, and nothing in this section shall preclude an owner from seeking such a determination. Such civil penalties 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.), except that civil penalties assessed for violations of Article 9 (§ 62.1-44.34:8 et seq.) or Article 11 (§ 62.1-44.34:14 et seq.) shall be paid into the Virginia Petroleum Storage Tank Fund in accordance with § 62.1-44.34:11, and except that civil penalties assessed for violations of Article 2.3 (§ 62.1-44.15:24 et seq.) shall be paid in accordance with the provisions of § 62.1-44.15:48.

(8b) Such special orders are to be issued only after a hearing before a hearing officer appointed by the Supreme Court in accordance with § 2.2-4020 or, if requested by the person, before a quorum of the Board with at least 30 days' notice to the affected owners, of the time, place and purpose thereof, and they shall become effective not less than 15 days after service as provided in § 62.1-44.12; provided that if the Board finds that any such owner is grossly affecting or presents an imminent and substantial danger to (i) the public health, safety or welfare, or the health of animals, fish or aquatic life; (ii) a public water supply; or (iii) recreational, commercial, industrial, agricultural or other reasonable uses, it may issue, without advance notice or hearing, an emergency special order directing the owner to cease such pollution or discharge immediately, and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof to the owner, to affirm, modify, amend or cancel such emergency 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, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles, or civil charges assessed for violations of Article 2.3 (§ 62.1-44.15:24 et seq.), or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under that article.

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

3627 heard and to present evidence. If no hearing is held before issuance of an order under subdivision (8d),  
3628 any person who commented on the proposed order may file a petition, within 30 days after the issuance  
3629 of such order, requesting the Board to set aside such order and provide a formal hearing thereon. If the  
3630 evidence presented by the petitioner in support of the petition is material and was not considered in the  
3631 issuance of the order, the Board shall immediately set aside the order, provide a formal hearing, and  
3632 make such petitioner a party. If the Board denies the petition, the Board shall provide notice to the  
3633 petitioner and make available to the public the reasons for such denial, and the petitioner shall have the  
3634 right to judicial review of such decision under § 62.1-44.29 if he meets the requirements thereof.

3635 (9) To make such rulings under §§ 62.1-44.16, 62.1-44.17, and 62.1-44.19 as may be required upon  
3636 requests or applications to the Board, the owner or owners affected to be notified by certified mail as  
3637 soon as practicable after the Board makes them and such rulings to become effective upon such  
3638 notification.

3639 (10) To adopt such regulations as it deems necessary to enforce the general water quality  
3640 management program of the Board in all or part of the Commonwealth, except that a description of  
3641 provisions of any proposed regulation which are more restrictive than applicable federal requirements,  
3642 together with the reason why the more restrictive provisions are needed, shall be provided to the  
3643 standing committee of each house of the General Assembly to which matters relating to the content of  
3644 the regulation are most properly referable.

3645 (11) To investigate any large-scale killing of fish.

3646 (a) Whenever the Board shall determine that any owner, whether or not he shall have been issued a  
3647 certificate for discharge of waste, has discharged sewage, industrial waste, or other waste into state  
3648 waters in such quantity, concentration or manner that fish are killed as a result thereof, it may effect  
3649 such settlement with the owner as will cover the costs incurred by the Board and by the Department of  
3650 ~~Game and Inland Fisheries~~ *Wildlife Resources* in investigating such killing of fish, plus the replacement  
3651 value of the fish destroyed, or as it deems proper, and if no such settlement is reached within a  
3652 reasonable time, the Board shall authorize its executive secretary to bring a civil action in the name of  
3653 the Board to recover from the owner such costs and value, plus any court or other legal costs incurred  
3654 in connection with such action.

3655 (b) If the owner is a political subdivision of the Commonwealth, the action may be brought in any  
3656 circuit court within the territory embraced by such political subdivision. If the owner is an  
3657 establishment, as defined in this chapter, the action shall be brought in the circuit court of the city or the  
3658 circuit court of the county in which such establishment is located. If the owner is an individual or group  
3659 of individuals, the action shall be brought in the circuit court of the city or circuit court of the county in  
3660 which such person or any of them reside.

3661 (c) For the purposes of this subsection the State Water Control Board shall be deemed the owner of  
3662 the fish killed and the proceedings shall be as though the State Water Control Board were the owner of  
3663 the fish. The fact that the owner has or held a certificate issued under this chapter shall not be raised as  
3664 a defense in bar to any such action.

3665 (d) The proceeds of any recovery had under this subsection shall, when received by the Board, be  
3666 applied, first, to reimburse the Board for any expenses incurred in investigating such killing of fish. The  
3667 balance shall be paid to the Board of ~~Game and Inland Fisheries~~ *Wildlife Resources* to be used for the  
3668 fisheries' management practices as in its judgment will best restore or replace the fisheries' values lost as  
3669 a result of such discharge of waste, including, where appropriate, replacement of the fish killed with  
3670 game fish or other appropriate species. Any such funds received are hereby appropriated for that  
3671 purpose.

3672 (e) Nothing in this subsection shall be construed in any way to limit or prevent any other action  
3673 which is now authorized by law by the Board against any owner.

3674 (f) Notwithstanding the foregoing, the provisions of this subsection shall not apply to any owner who  
3675 adds or applies any chemicals or other substances that are recommended or approved by the State  
3676 Department of Health to state waters in the course of processing or treating such waters for public water  
3677 supply purposes, except where negligence is shown.

3678 (12) To administer programs of financial assistance for planning, construction, operation, and  
3679 maintenance of water quality control facilities for political subdivisions in the Commonwealth.

3680 (13) To establish policies and programs for effective area-wide or basin-wide water quality control  
3681 and management. The Board may develop comprehensive pollution abatement and water quality control  
3682 plans on an area-wide or basin-wide basis. In conjunction with this, the Board, when considering  
3683 proposals for waste treatment facilities, is to consider the feasibility of combined or joint treatment  
3684 facilities and is to ensure that the approval of waste treatment facilities is in accordance with the water  
3685 quality management and pollution control plan in the watershed or basin as a whole. In making such  
3686 determinations, the Board is to seek the advice of local, regional, or state planning authorities.

3687 (14) To establish requirements for the treatment of sewage, industrial wastes and other wastes that  
3688 are consistent with the purposes of this chapter; however, no treatment shall be less than secondary or

its equivalent, unless the owner can demonstrate that a lesser degree of treatment is consistent with the purposes of this chapter.

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

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

(17) To establish additional procedures for obtaining a Virginia Water Protection Permit pursuant to §§ 62.1-44.15:20 and 62.1-44.15:22 for a proposed water withdrawal involving the transfer of water resources between major river basins within the Commonwealth that may impact water basins in another state. Such additional procedures shall not apply to any water withdrawal in existence as of July 1, 2012, except where the expansion of such withdrawal requires a permit under §§ 62.1-44.15:20 and 62.1-44.15:22, in which event such additional procedures may apply to the extent of the expanded withdrawal only. The applicant shall provide as part of the application (i) an analysis of alternatives to such a transfer, (ii) a comprehensive analysis of the impacts that would occur in the source and receiving basins, (iii) a description of measures to mitigate any adverse impacts that may arise, (iv) a description of how notice shall be provided to interested parties, and (v) any other requirements that the Board may adopt that are consistent with the provisions of this section and §§ 62.1-44.15:20 and 62.1-44.15:22 or regulations adopted thereunder. This subdivision shall not be construed as limiting or expanding the Board's authority under §§ 62.1-44.15:20 and 62.1-44.15:22 to issue permits and impose conditions or limitations on the permitted activity.

(18) To be the lead agency for the Commonwealth's nonpoint source pollution management program, including coordination of the nonpoint source control elements of programs developed pursuant to certain state and federal laws, including § 319 of the federal Clean Water Act and § 6217 of the federal Coastal Zone Management Act. Further responsibilities include the adoption of regulations necessary to implement a nonpoint source pollution management program in the Commonwealth, the distribution of assigned funds, the identification and establishment of priorities to address nonpoint source related water quality problems, the administration of the Statewide Nonpoint Source Advisory Committee, and the development of a program for the prevention and control of soil erosion, sediment deposition, and nonagricultural runoff to conserve Virginia's natural resources.

**§ 62.1-44.15. (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts 2017, c. 345) Powers and duties; civil penalties.**

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

(1) [Repealed.]

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

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

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

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

(3a) To establish such standards of quality and policies for any state waters consistent with the general policy set forth in this chapter, and to modify, amend, or cancel any such standards or policies established and to take all appropriate steps to prevent quality alteration contrary to the public interest or to standards or policies thus established, except that a description of provisions of any proposed standard or policy adopted by 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 standard or policy are most properly referable. The Board shall, from time to time, but at least once every three years, hold public hearings pursuant to § 2.2-4007.01 but, upon the request of an affected 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

3750 the Board considers the adoption, modification, amendment, or cancellation of any standard, it shall give  
3751 due consideration to, among other factors, the economic and social costs and benefits which can  
3752 reasonably be expected to obtain as a consequence of the standards as adopted, modified, amended, or  
3753 cancelled. The Board shall also give due consideration to the public health standards issued by the  
3754 Virginia Department of Health with respect to issues of public health policy and protection. If the Board  
3755 does not follow the public health standards of the Virginia Department of Health, the Board's reason for  
3756 any deviation shall be made in writing and published for any and all concerned parties.

3757 (3b) Except as provided in subdivision (3a), such standards and policies are to be adopted or  
3758 modified, amended, or cancelled in the manner provided by the Administrative Process Act (§ 2.2-4000  
3759 et seq.).

3760 (4) To conduct or have conducted scientific experiments, investigations, studies, and research to  
3761 discover methods for maintaining water quality consistent with the purposes of this chapter. To this end  
3762 the Board may cooperate with any public or private agency in the conduct of such experiments,  
3763 investigations, and research and may receive in behalf of the Commonwealth any moneys that any such  
3764 agency may contribute as its share of the cost under any such cooperative agreement. Such moneys shall  
3765 be used only for the purposes for which they are contributed and any balance remaining after the  
3766 conclusion of the experiments, investigations, studies, and research, shall be returned to the contributors.

3767 (5) To issue, revoke, or amend certificates and land-disturbance approvals under prescribed  
3768 conditions for (a) the discharge of sewage, stormwater, industrial wastes, and other wastes into or  
3769 adjacent to state waters; (b) the alteration otherwise of the physical, chemical, or biological properties of  
3770 state waters; (c) excavation in a wetland; or (d) on and after October 1, 2001, the conduct of the  
3771 following activities in a wetland: (i) new activities to cause draining that significantly alters or degrades  
3772 existing wetland acreage or functions, (ii) filling or dumping, (iii) permanent flooding or impounding, or  
3773 (iv) new activities that cause significant alteration or degradation of existing wetland acreage or  
3774 functions. However, to the extent allowed by federal law, any person holding a certificate issued by the  
3775 Board that is intending to upgrade the permitted facility by installing technology, control equipment, or  
3776 other apparatus that the permittee demonstrates to the satisfaction of the Director will result in improved  
3777 energy efficiency, reduction in the amount of nutrients discharged, and improved water quality shall not  
3778 be required to obtain a new, modified, or amended permit. The permit holder shall provide the  
3779 demonstration anticipated by this subdivision to the Department no later than 30 days prior to  
3780 commencing construction.

3781 (5a) All certificates issued by the Board under this chapter shall have fixed terms. The term of a  
3782 Virginia Pollution Discharge Elimination System permit shall not exceed five years. The term of a  
3783 Virginia Water Protection Permit shall be based upon the projected duration of the project, the length of  
3784 any required monitoring, or other project operations or permit conditions; however, the term shall not  
3785 exceed 15 years. The term of a Virginia Pollution Abatement permit shall not exceed 10 years, except  
3786 that the term of a Virginia Pollution Abatement permit for confined animal feeding operations shall be  
3787 10 years. The Department of Environmental Quality shall inspect all facilities for which a Virginia  
3788 Pollution Abatement permit has been issued to ensure compliance with statutory, regulatory, and permit  
3789 requirements. Department personnel performing inspections of confined animal feeding operations shall  
3790 be certified under the voluntary nutrient management training and certification program established in  
3791 § 10.1-104.2. The term of a certificate issued by the Board shall not be extended by modification  
3792 beyond the maximum duration and the certificate shall expire at the end of the term unless an  
3793 application for a new permit has been timely filed as required by the regulations of the Board and the  
3794 Board is unable, through no fault of the permittee, to issue a new permit before the expiration date of  
3795 the previous permit.

3796 (5b) Any certificate or land-disturbance approval issued by the Board under this chapter may, after  
3797 notice and opportunity for a hearing, be amended or revoked on any of the following grounds or for  
3798 good cause as may be provided by the regulations of the Board:

3799 1. The owner has violated any regulation or order of the Board, any condition of a certificate or  
3800 land-disturbance approval, any provision of this chapter, or any order of a court, where such violation  
3801 results in a release of harmful substances into the environment, poses a substantial threat of release of  
3802 harmful substances into the environment, causes unreasonable property degradation, or presents a hazard  
3803 to human health or the violation is representative of a pattern of serious or repeated violations which, in  
3804 the opinion of the Board, demonstrates the owner's disregard for or inability to comply with applicable  
3805 laws, regulations, or requirements;

3806 2. The owner has failed to disclose fully all relevant material facts or has misrepresented a material  
3807 fact in applying for a certificate or land-disturbance approval, or in any other report or document  
3808 required under this law or under the regulations of the Board;

3809 3. The activity for which the certificate or land-disturbance approval was issued endangers human  
3810 health or the environment or causes unreasonable property degradation and can be regulated to  
3811 acceptable levels or practices by amendment or revocation of the certificate or land-disturbance approval;

or

4. There exists a material change in the basis on which the certificate, land-disturbance approval, or permit was issued that requires either a temporary or a permanent reduction or elimination of any discharge or land-disturbing activity controlled by the certificate, land-disturbance approval, or permit necessary to protect human health or the environment or stop or prevent unreasonable degradation of property.

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

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

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

(8a) Except as otherwise provided in subdivision (19) and Article 2.3 (§ 62.1-44.15:24 et seq.), to issue special orders to owners, including owners as defined in § 62.1-44.15:24, who (i) are permitting or causing the pollution, as defined by § 62.1-44.3, of state waters or the unreasonable degradation of property to cease and desist from such pollution or degradation, (ii) have failed to construct facilities in accordance with final approved plans and specifications to construct such facilities in accordance with final approved plans and specifications, (iii) have violated the terms and provisions of a certificate or land-disturbance approval issued by the Board to comply with such terms and provisions, (iv) have failed to comply with a directive from the Board to comply with such directive, (v) have contravened duly adopted and promulgated water quality standards and policies to cease and desist from such contravention and to comply with such water quality standards and policies, (vi) have violated the terms and provisions of a pretreatment permit issued by the Board or by the owner of a publicly owned treatment works to comply with such terms and provisions, or (vii) have contravened any applicable pretreatment standard or requirement to comply with such standard or requirement; and also to issue such orders to require any owner to comply with the provisions of this chapter and any decision of the Board. Except as otherwise provided by a separate article, orders issued pursuant to this subdivision may include civil penalties of up to \$ 32,500 per violation, not to exceed \$ 100,000 per order. The Board may assess penalties under this subdivision if (a) the person has been issued at least two written notices of alleged violation by the Department for the same or substantially related violations at the same site, (b) such violations have not been resolved by demonstration that there was no violation, by an order issued by the Board or the Director, or by other means, (c) at least 130 days have passed since the issuance of the first notice of alleged violation, and (d) there is a finding that such violations have occurred after a hearing conducted in accordance with subdivision (8b). The actual amount of any penalty assessed shall be 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. The Board shall provide the person with the calculation for the proposed penalty prior to any hearing conducted for the issuance of an order that assesses penalties pursuant to this subdivision. The issuance of a notice of alleged violation by the Department shall not be considered a case decision as defined in § 2.2-4001. Any notice of alleged violation shall include a description of each violation, the specific provision of law violated, and information on the process for obtaining a final decision or fact finding from the Department on whether or not a violation has occurred, and nothing in this section shall preclude an owner from seeking such a determination. Such civil penalties 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.), except that civil penalties assessed for violations of Article 9 (§ 62.1-44.34:8 et seq.) or Article 11 (§ 62.1-44.34:14

et seq.) shall be paid into the Virginia Petroleum Storage Tank Fund in accordance with § 62.1-44.34:11, and except that civil penalties assessed for violations of subdivision (19) or Article 2.3 (§ 62.1-44.15:24 et seq.) shall be paid into the Stormwater Local Assistance Fund in accordance with § 62.1-44.15:29.1.

(8b) Such special orders are to be issued only after a hearing before a hearing officer appointed by the Supreme Court in accordance with § 2.2-4020 or, if requested by the person, before a quorum of the Board with at least 30 days' notice to the affected owners, of the time, place, and purpose thereof, and they shall become effective not less than 15 days after service as provided in 62.1-44.12, provided that if the Board finds that any such owner is grossly affecting or presents an imminent and substantial danger to (i) the public health, safety, or welfare, or the health of animals, fish, or aquatic life; (ii) a public water supply; or (iii) recreational, commercial, industrial, agricultural, or other reasonable uses, it may issue, without advance notice or hearing, an emergency special order directing the owner to cease such pollution or discharge immediately, and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof to the owner, to affirm, modify, amend, or cancel such emergency 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) Except as otherwise provided in subdivision (19), subdivision 2 of § 62.1-44.15:25, or § 62.1-44.15:63, 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 certificate, land-disturbance approval, or 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 subsection (a) of § 62.1-44.32. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (a) of § 62.1-44.32 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, or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under those articles, or civil charges assessed for violations of Article 2.3 (§ 62.1-44.15:24 et seq.) or 2.5 (§ 62.1-44.15:67 et seq.) or a regulation, administrative or judicial order, or term or condition of approval relating to or issued under Article 2.3 or 2.5.

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 soil erosion control and stormwater management program and 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 Wildlife Resources 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.

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

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

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

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

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

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

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

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

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

(16) To establish and implement policies and programs to protect and enhance the Commonwealth's

3996 wetland resources. Regulatory programs shall be designed to achieve no net loss of existing wetland  
3997 acreage and functions. Voluntary and incentive-based programs shall be developed to achieve a net  
3998 resource gain in acreage and functions of wetlands. The Board shall seek and obtain advice and  
3999 guidance from the Virginia Institute of Marine Science in implementing these policies and programs.

4000 (17) To establish additional procedures for obtaining a Virginia Water Protection Permit pursuant to  
4001 §§ 62.1-44.15:20 and 62.1-44.15:22 for a proposed water withdrawal involving the transfer of water  
4002 resources between major river basins within the Commonwealth that may impact water basins in another  
4003 state. Such additional procedures shall not apply to any water withdrawal in existence as of July 1,  
4004 2012, except where the expansion of such withdrawal requires a permit under §§ 62.1-44.15:20 and  
4005 62.1-44.15:22, in which event such additional procedures may apply to the extent of the expanded  
4006 withdrawal only. The applicant shall provide as part of the application (i) an analysis of alternatives to  
4007 such a transfer, (ii) a comprehensive analysis of the impacts that would occur in the source and  
4008 receiving basins, (iii) a description of measures to mitigate any adverse impacts that may arise, (iv) a  
4009 description of how notice shall be provided to interested parties, and (v) any other requirements that the  
4010 Board may adopt that are consistent with the provisions of this section and §§ 62.1-44.15:20 and  
4011 62.1-44.15:22 or regulations adopted thereunder. This subdivision shall not be construed as limiting or  
4012 expanding the Board's authority under §§ 62.1-44.15:20 and 62.1-44.15:22 to issue permits and impose  
4013 conditions or limitations on the permitted activity.

4014 (18) To be the lead agency for the Commonwealth's nonpoint source pollution management program,  
4015 including coordination of the nonpoint source control elements of programs developed pursuant to  
4016 certain state and federal laws, including § 319 of the federal Clean Water Act and § 6217 of the federal  
4017 Coastal Zone Management Act. Further responsibilities include the adoption of regulations necessary to  
4018 implement a nonpoint source pollution management program in the Commonwealth, the distribution of  
4019 assigned funds, the identification and establishment of priorities to address nonpoint source related water  
4020 quality problems, the administration of the Statewide Nonpoint Source Advisory Committee, and the  
4021 development of a program for the prevention and control of soil erosion, sediment deposition, and  
4022 nonagricultural runoff to conserve Virginia's natural resources.

4023 (19) To review for compliance with the provisions of this chapter the Virginia Erosion and  
4024 Stormwater Management Programs adopted by localities pursuant to § 62.1-44.15:27, the Virginia  
4025 Erosion and Sediment Control Programs adopted by localities pursuant to subdivision B 3 of §  
4026 62.1-44.15:27, and the programs adopted by localities pursuant to the Chesapeake Bay Preservation Act  
4027 (§ 62.1-44.15:67 et seq.). The Board shall develop and implement a schedule for conducting such  
4028 program reviews as often as necessary but at least once every five years. Following the completion of a  
4029 compliance review in which deficiencies are found, the Board shall establish a schedule for the locality  
4030 to follow in correcting the deficiencies and bringing its program into compliance. If the locality fails to  
4031 bring its program into compliance in accordance with the compliance schedule, then the Board is  
4032 authorized to (i) issue a special order to any locality imposing a civil penalty not to exceed \$ 5,000 per  
4033 violation with the maximum amount not to exceed \$ 50,000 per order for noncompliance with the state  
4034 program, to be paid into the state treasury and deposited in the Stormwater Local Assistance Fund  
4035 established in § 62.1-44.15:29.1 or (ii) with the consent of the locality, provide in an order issued  
4036 against the locality for the payment of civil charges for violations in lieu of civil penalties, in specific  
4037 sums not to exceed the limit stated in this subdivision. Such civil charges shall be in lieu of any  
4038 appropriate civil penalty that could be imposed under subsection (a) of § 62.1-44.32 and shall not be  
4039 subject to the provisions of § 2.2-514. The Board shall not delegate to the Department its authority to  
4040 issue special orders pursuant to clause (i). In lieu of issuing an order, the Board is authorized to take  
4041 legal action against a locality pursuant to § 62.1-44.23 to ensure compliance.

4042 **§ 62.1-44.15:5.01. Coordinated review of water resources projects.**

4043 A. Applications for water resources projects that require an individual Virginia Water Protection  
4044 Permit and a Virginia Marine Resources permit under § 28.2-1205 shall be submitted and processed  
4045 through a joint application and review process.

4046 B. The Director and the Commissioner of the Virginia Marine Resources Commission, in  
4047 consultation with the Virginia Institute of Marine Science, the Department of ~~Game and Inland Fisheries~~  
4048 *Wildlife Resources*, the Department of Historic Resources, the Department of Health, the Department of  
4049 Conservation and Recreation, the Virginia Department of Agriculture and Consumer Services, and any  
4050 other appropriate or interested state agency, shall coordinate the joint review process to ensure the  
4051 orderly evaluation of projects requiring both permits.

4052 C. The joint review process shall include, but not be limited to, provisions to ensure that: (i) the  
4053 initial application for the project shall be advertised simultaneously by the Department of Environmental  
4054 Quality and the Virginia Marine Resources Commission; (ii) project reviews shall be completed by all  
4055 state agencies that have been asked to review and provide comments within 45 days of project  
4056 notification by the Department of Environmental Quality and the Virginia Marine Resources  
4057 Commission; (iii) the Board and the Virginia Marine Resources Commission shall coordinate permit

issuance and, to the extent practicable, shall take action on the permit application no later than one year after the agencies have received complete applications; (iv) to the extent practicable, the Board and the Virginia Marine Resources Commission shall take action concurrently, but no more than six months apart; and (v) upon taking its final action on each permit, the Board and the Virginia Marine Resources Commission shall provide each other with notification of their actions and any and all supporting information, including any background materials or exhibits used in the application. Any state agency asked to review and provide comments in accordance with clause (ii) shall provide such comments within 45 days of project notification by the Department of Environmental Quality and the Virginia Marine Resources Commission or be deemed to have waived its right to provide comment.

D. If requested by the applicant, the Department of Environmental Quality shall convene a preapplication review panel to assist applicants for water resources projects in the early identification of issues related to the protection of beneficial instream and offstream uses of state waters. The Virginia Marine Resources Commission, the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries Wildlife Resources, the Department of Conservation and Recreation, and the Department of Environmental Quality shall participate in the preapplication review panel by providing information and guidance on the potential natural resource impacts and regulatory implications of the options being considered by the applicant. However, the participation by these agencies in such a review process shall not limit any authority they may exercise pursuant to state and federal laws or regulations.

**§ 62.1-44.15:6. Permit fee regulations.**

A. The Board shall promulgate regulations establishing a fee assessment and collection system to recover a portion of the State Water Control Board's, the Department of Game and Inland Fisheries' Wildlife Resources' and the Department of Conservation and Recreation's direct and indirect costs associated with the processing of an application to issue, reissue, amend or modify any permit or certificate, which the Board has authority to issue under this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of this title, from the applicant for such permit or certificate for the purpose of more efficiently and expeditiously processing permits. The fees shall be exempt from statewide indirect costs charged and collected by the Department of Accounts. The Board shall have no authority to charge such fees where the authority to issue such permits has been delegated to another agency that imposes permit fees.

B1. Permit fees charged an applicant for a Virginia Pollutant Discharge Elimination System permit or a Virginia Pollution Abatement permit shall reflect the average time and complexity of processing a permit in each of the various categories of permits and permit actions. However, notwithstanding any other provision of law, in no instance shall the Board charge a fee for a permit pertaining to a farming operation engaged in production for market or for a permit pertaining to maintenance dredging for federal navigation channels or other Corps of Engineers- or Department of the Navy-sponsored dredging projects or for the regularly scheduled renewal of an individual permit for an existing facility. Fees shall be charged for a major modification or reissuance of a permit initiated by the permittee that occurs between permit issuance and the stated expiration date. No fees shall be charged for a modification or amendment made at the Board's initiative. In no instance shall the Board exceed the following amounts for the processing of each type of permit/certificate category:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major Industrial	\$24,000
Major Municipal	\$21,300
Minor Industrial with nonstandard limits	\$10,300
Minor Industrial with standard limits	\$6,600
Minor Municipal greater than 100,000 gallons per day	\$7,500
Minor Municipal 10,001-100,000 gallons per day	\$6,000
Minor Municipal 1,000-10,000 gallons per day	\$5,400
Minor Municipal less than 1,000 gallons per day	\$2,000
General-industrial stormwater management	\$500
General-stormwater management-phase I land clearing	\$500
General-stormwater management-phase II land clearing	\$300
General-other	\$600
2. Virginia Pollution Abatement	
Industrial/Wastewater 10 or more inches per year	\$15,000
Industrial/Wastewater less than 10 inches per year	\$10,500
Industrial/Sludge	\$7,500
Municipal/Wastewater	\$13,500
Municipal/Sludge	\$7,500
General Permit	\$600
Other	\$750

The fee for the major modification of a permit or certificate that occurs between the permit issuance

4121 and expiration dates shall be 50 percent of the maximum amount established by this subsection. No fees  
 4122 shall be charged for minor modifications or minor amendments to such permits. For the purpose of this  
 4123 subdivision, "minor modifications" or "minor amendments" means specific types of changes defined by  
 4124 the Board that are made to keep the permit current with routine changes to the facility or its operation  
 4125 that do not require extensive review. A minor permit modification or amendment does not substantially  
 4126 alter permit conditions, increase the size of the operation, or reduce the capacity of the facility to protect  
 4127 human health or the environment.

4128 B2. Each permitted facility shall pay a permit maintenance fee to the Board by October 1 of each  
 4129 year, not to exceed the following amounts:

4130	Type of Permit/Certificate Category	Maximum Amount
4131	1. Virginia Pollutant Discharge Elimination System	
4132	Major Industrial	\$4,800
4133	Major Municipal greater than 10 million gallons per day	\$4,750
4134	Major Municipal 2-10 million gallons per day	\$4,350
4135	Major Municipal less than 2 million gallons per day	\$3,850
4136	Minor Industrial with nonstandard limits	\$2,040
4137	Minor Industrial with standard limits	\$1,320
4138	Minor Industrial water treatment system	\$1,200
4139	Minor Municipal greater than 100,000 gallons per day	\$1,500
4140	Minor Municipal 10,001-100,000 gallons per day	\$1,200
4141	Minor Municipal 1,000-10,000 gallons per day	\$1,080
4142	Minor Municipal less than 1,000 gallons per day	\$400
4143	2. Virginia Pollution Abatement	
4144	Industrial/Wastewater 10 or more inches per year	\$3,000
4145	Industrial/Wastewater less than 10 inches per year	\$2,100
4146	Industrial/Sludge	\$3,000
4147	Municipal/Wastewater	\$2,700
4148	Municipal/Sludge	\$1,500

4149 An additional permit maintenance fee of \$1,000 shall be collected from facilities in a toxics  
 4150 management program and an additional permit maintenance fee shall be collected from facilities that  
 4151 have more than five process wastewater discharge outfalls. Permit maintenance fees shall be collected  
 4152 annually and shall be remitted by October 1 of each year. For a local government or public service  
 4153 authority with permits for multiple facilities in a single jurisdiction, the permit maintenance fees for  
 4154 permits held as of April 1, 2004, shall not exceed \$20,000 per year. No permit maintenance fee shall be  
 4155 assessed for facilities operating under a general permit or for permits pertaining to a farming operation  
 4156 engaged in production for market.

4157 B3. Permit application fees charged for Virginia Water Protection Permits, ground water withdrawal  
 4158 permits, and surface water withdrawal permits shall reflect the average time and complexity of  
 4159 processing a permit in each of the various categories of permits and permit actions and the size of the  
 4160 proposed impact. Only one permit fee shall be assessed for a water protection permit involving elements  
 4161 of more than one category of permit fees under this section. The fee shall be assessed based upon the  
 4162 primary purpose of the proposed activity. In no instance shall the Board charge a fee for a permit  
 4163 pertaining to maintenance dredging for federal navigation channels or other U.S. Army Corps of  
 4164 Engineers- or Department of the Navy-sponsored dredging projects, and in no instance shall the Board  
 4165 exceed the following amounts for the processing of each type of permit/certificate category:

4166	Type of Permit	Maximum Amount
4167	1. Virginia Water Protection	
4168	Individual-wetland impacts	\$2,400 plus \$220 per 1/10 acre of impact over two acres, not to exceed \$60,000
4169	Individual-minimum instream flow	\$25,000
4170	Individual-reservoir	\$35,000
4171	Individual-nonmetallic mineral mining	\$7,500
4172	General-less than 1/10 acre impact	\$0
4173	General-1/10 to 1/2 acre impact	\$600
4174	General-greater than 1/2 to one acre impact	\$1,200
4175	General-greater than one acre to two acres of impact	\$120 per 1/10 acre of impact
4176	2. Ground Water Withdrawal	\$9,000
4177	3. Surface Water Withdrawal	\$12,000

4179 No fees shall be charged for minor modifications or minor amendments to such permits. For the  
 4180 purpose of this subdivision, "minor modifications" or "minor amendments" means specific types of  
 4181 changes defined by the Board that are made to keep the permit current with routine changes to the  
 4182 facility or its operation that do not require extensive review. A minor permit modification or amendment  
 4183 does not substantially alter permit conditions, increase the size of the operation, or reduce the capacity  
 4184 of the facility to protect human health or the environment.

C. When promulgating regulations establishing permit fees, the Board shall take into account the permit fees charged in neighboring states and the importance of not placing existing or prospective industries in the Commonwealth at a competitive disadvantage.

D. Beginning January 1, 1998, and January 1 of every even-numbered year thereafter, the Board shall make a report on the implementation of the water permit program to the Senate Committee on Agriculture, Conservation and Natural Resources, the Senate Committee on Finance, the House Committee on Appropriations, the House Committee on Agriculture, Chesapeake and Natural Resources and the House Committee on Finance. The report shall include the following: (i) the total costs, both direct and indirect, including the costs of overhead, water quality planning, water quality assessment, operations coordination, and surface water and ground water investigations, (ii) the total fees collected by permit category, (iii) the amount of general funds allocated to the Board, (iv) the amount of federal funds received, (v) the Board's use of the fees, the general funds, and the federal funds, (vi) the number of permit applications received by category, (vii) the number of permits issued by category, (viii) the progress in eliminating permit backlogs, (ix) the timeliness of permit processing, and (x) the direct and indirect costs to neighboring states of administering their water permit programs, including what activities each state categorizes as direct and indirect costs, and the fees charged to the permit holders and applicants.

E. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund appropriation to the Board.

F. Permit fee schedules shall apply to permit programs in existence on July 1, 1992, any additional permits that may be required by the federal government and administered by the Board, or any new permit required pursuant to any law of the Commonwealth.

G. The Board is authorized to promulgate regulations establishing a schedule of reduced permit fees for facilities that have established a record of compliance with the terms and requirements of their permits and shall establish criteria by regulation to provide for reductions in the annual fee amount assessed for facilities accepted into the Department's programs to recognize excellent environmental performance.

**§ 62.1-44.15:20. Virginia Water Protection Permit.**

A. Except in compliance with an individual or general Virginia Water Protection Permit issued in accordance with this article, it shall be unlawful to:

1. Excavate in a wetland;
2. On or after October 1, 2001, conduct the following in a wetland:
  - a. New activities to cause draining that significantly alters or degrades existing wetland acreage or functions;
  - b. Filling or dumping;
  - c. Permanent flooding or impounding; or
  - d. New activities that cause significant alteration or degradation of existing wetland acreage or functions; or

3. Alter the physical, chemical, or biological properties of state waters and make them detrimental to the public health, animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses unless authorized by a certificate issued by the Board.

B. The Board shall, after providing an opportunity for public comment, issue a Virginia Water Protection Permit if it has determined that the proposed activity is consistent with the provisions of the Clean Water Act and the State Water Control Law and will protect instream beneficial uses.

C. Prior to the issuance of a Virginia Water Protection Permit, the Board shall consult with and give full consideration to any relevant information contained in the state water supply plan described in subsection A of § 62.1-44.38:1 as well as to the written recommendations of the following agencies: the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, the Department of Conservation and Recreation, the Virginia Marine Resources Commission, the Department of Health, the Department of Agriculture and Consumer Services, and any other interested and affected agencies. When considering the state water supply plan, nothing shall be construed to limit the operation or expansion of an electric generation facility located on a man-made lake or impoundment built for the purpose of providing cooling water to such facility. Such consultation shall include the need for balancing instream uses with offstream uses. Agencies may submit written comments on proposed permits within 45 days after notification by the Board. If written comments are not submitted by an agency within this time period, the Board shall assume that the agency has no comments on the proposed permit and deem that the agency has waived its right to comment. After the expiration of the 45-day period, any such agency shall have no further opportunity to comment.

D. Issuance of a Virginia Water Protection Permit shall constitute the certification required under § 401 of the Clean Water Act, except for any applicant to the Federal Energy Regulatory Commission for a certificate of public convenience and necessity pursuant to § 7c of the federal Natural Gas Act (15

4246 U.S.C. § 717f(c)) to construct any natural gas transmission pipeline greater than 36 inches inside  
4247 diameter, in which case issuance of a Virginia Water Protection Permit pursuant to this article and a  
4248 certification issued pursuant to Article 2.6 (§ 62.1-44.15:80 et seq.) shall together constitute the  
4249 certification required under § 401 of the federal Clean Water Act.

4250 E. No locality may impose wetlands permit requirements duplicating state or federal wetlands permit  
4251 requirements. In addition, no locality shall impose or establish by ordinance, policy, plan, or any other  
4252 means provisions related to the location of wetlands or stream mitigation in satisfaction of aquatic  
4253 resource impacts regulated under a Virginia Water Protection Permit or under a permit issued by the  
4254 U.S. Army Corps of Engineers pursuant to § 404 of the Clean Water Act. However, a locality's  
4255 determination of allowed uses within zoning classifications or its approval of the siting or construction  
4256 of wetlands or stream mitigation banks or other mitigation projects shall not be affected by the  
4257 provisions of this subsection.

4258 F. The Board shall assess compensation implementation, inventory permitted wetland impacts, and  
4259 work to prevent unpermitted impacts to wetlands.

4260 **§ 62.1-44.15:81. Application and preparation of draft certification conditions.**

4261 A. Any applicant for a federal license or permit for a natural gas transmission pipeline greater than  
4262 36 inches inside diameter subject to § 7c of the federal Natural Gas Act (15 U.S.C. § 717f(c)) shall  
4263 submit a separate application, at the same time the Joint Permit Application is submitted, to the  
4264 Department containing a description of all activities that will occur in upland areas, including activities  
4265 in or related to (i) slopes with a grade greater than 15 percent; (ii) karst geology features, including  
4266 sinkholes and underground springs; (iii) proximity to sensitive streams and wetlands identified by the  
4267 Department of Conservation and Recreation or the Department of ~~Game and Inland Fisheries Wildlife~~  
4268 *Resources*; (iv) seasonally high water tables; (v) water impoundment structures and reservoirs; and (vi)  
4269 areas with highly erodible soils, low pH, and acid sulfate soils.

4270 B. At any time during the review of the application, but prior to issuing a certification pursuant to  
4271 this article, the Department may issue an information request to the applicant for any relevant additional  
4272 information necessary to determine (i) if any activities related to the applicant's project in upland areas  
4273 are likely to result in a discharge to state waters and (ii) how the applicant proposes to minimize water  
4274 quality impacts to the maximum extent practicable to protect water quality. The information request  
4275 shall provide a reasonable amount of time for the applicant to respond.

4276 C. The Department shall review the information contained in the application and any additional  
4277 information obtained through any information requests issued pursuant to subsection B to determine if  
4278 any activities described in the application or in any additional information requests (i) are likely to result  
4279 in a discharge to state waters with the potential to adversely impact water quality and (ii) will not be  
4280 addressed by the Virginia Water Protection Permit issued for the activity pursuant to Article 2.2 (§  
4281 62.1-44.15:20 et seq.). The Department of ~~Game and Inland Fisheries Wildlife Resources~~, the  
4282 Department of Conservation and Recreation, the Department of Health, and the Department of  
4283 Agriculture and Consumer Services shall consult with the Department during the review of the  
4284 application and any additional information obtained through any information requests issued pursuant to  
4285 subsection B. Following the conclusion of its review, the Department shall develop a draft certification  
4286 for public comment and potential issuance by the Department or the Board pursuant to § 62.1-44.15:02  
4287 that contains any additional conditions for activities in upland areas necessary to protect water quality.  
4288 The Department shall make the information contained in the application and any additional information  
4289 obtained through any information requests issued pursuant to subsection B available to the public.

4290 D. Notwithstanding any applicable annual standards and specifications for erosion and sediment  
4291 control or stormwater management pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) or 2.4  
4292 (§ 62.1-44.15:51 et seq.), the applicant shall not commence land-disturbing activity prior to approval by  
4293 the Department of an erosion and sediment control plan and stormwater management plan in accordance  
4294 with applicable regulations. The Department shall act on any plan submittal within 60 days after initial  
4295 submittal of a completed plan to the Department. The Department may issue either approval or  
4296 disapproval and shall provide written rationale for any disapproval. The Department shall act on any  
4297 plan that has been previously disapproved within 30 days after the plan has been revised and  
4298 resubmitted for approval.

4299 E. No action by either the Department or the Board on a certification pursuant to this article shall  
4300 alter the siting determination made through Federal Energy Regulatory Commission or State Corporation  
4301 Commission approval.

4302 F. The Department shall assess an administrative charge to the applicant to cover the direct costs of  
4303 services rendered associated with its responsibilities pursuant to this section.

4304 **§ 62.1-44.19:6. Citizen right-to-know provisions.**

4305 A. The Board, based on the information in the 303(d) and 305(b) reports, shall:

4306 1. Request the Department of ~~Game and Inland Fisheries Wildlife Resources~~ or the Virginia Marine  
4307 Resources Commission to post notices at public access points to all toxic impaired waters. The notice

shall be prepared by the Board and shall contain (i) the basis for the impaired designation and (ii) a statement of the potential health risks provided by the Virginia Department of Health. The Board shall annually notify local newspapers, and persons who request notice, of any posting and its contents. The Board shall coordinate with the Virginia Marine Resources Commission and the Department of Game and Inland Fisheries Wildlife Resources to assure that adequate notice of posted waters is provided to those purchasing hunting and fishing licenses.

2. Maintain a "citizen hot-line" for citizens to obtain, either telephonically or electronically, information about the condition of waterways, including information on toxics, toxic discharges, permit violations and other water quality related issues.

3. Make information regarding the presence of toxics in fish tissue and sediments available to the public on the Internet and through other reasonable means for at least five years after the information is received by the Department of Environmental Quality. The Department of Environmental Quality shall post on the Internet and in the Virginia Register on or about January 1 and July 1 of each year an announcement of any new data that has been received over the past six months and shall make a copy of the information available upon request.

B. The Board shall provide to a local newspaper the discharge information reported to the Director of the Department of Environmental Quality pursuant to § 62.1-44.5, when the Virginia Department of Health determines that the discharge may be detrimental to the public health or the Board determines that the discharge may impair beneficial uses of state waters.

**§ 62.1-44.33. Board to adopt regulations; tidal waters no discharge zones.**

A. The State Water Control Board is empowered and directed to adopt all necessary regulations for the purpose of controlling the discharge of sewage and other wastes from both documented and undocumented boats and vessels on all navigable and nonnavigable waters within this Commonwealth. No such regulation shall impose restrictions that are more restrictive than the regulations applicable under federal law; provided, however, the Board may adopt such regulations as are reasonably necessary with respect to: (i) vessels regularly berthed in marinas or other places where vessels are moored, in order to limit or avoid the closing of shellfish grounds; and (ii) no discharge zones. Documented and undocumented boats and vessels are prohibited from discharging into the Chesapeake Bay and the tidal portions of its tributaries sewage that has not been treated by a Coast Guard-approved Marine Sanitation Device (MSD Type 1 or Type 2); however, the discharge of treated or untreated sewage by such boats and vessels is prohibited in areas that have been designated as no discharge zones by the United States Environmental Protection Agency. Any discharges, as defined in 9VAC25-71-10, that are incidental to the normal operation of a vessel shall not constitute a violation of this section.

B. The tidal creeks of the Commonwealth are hereby established as no discharge zones for the discharge of sewage and other wastes from documented and undocumented boats and vessels. Criteria for the establishment of no discharge zones shall be premised on the improvement of impaired tidal creeks. Nothing in this section shall be construed to discourage the proper use of Type 1 and Type 2 Marine Sanitation Devices, as defined under 33 U.S.C. § 1332, in authorized areas other than properly designated no discharge zones. The Board shall adopt regulations for designated no discharge zones requiring (i) boats and vessels without installed toilets to dispose of any collected sewage from portable toilets or other containment devices at marina facilities approved by the Department of Health for collection of sewage wastes, or otherwise dispose of sewage in a manner that complies with state law; (ii) all boats and vessels with installed toilets to have a marine sanitation device to allow sewage holding capacity unless the toilets are rendered inoperable; (iii) all houseboats having installed toilets to have a holding tank with the capability of collecting and holding sewage and disposing of collected sewage at a pump-out facility; if the houseboats lack such tank then the marine sanitation device shall comply with clause (iv); (iv) y-valves, macerator pump valves, discharge conveyances or any other through-hull fitting valves capable of allowing a discharge of sewage from marine sanitation devices shall be secured in the closed position while in a no discharge zone by use of a padlock, nonreleasable wire tie, or removal of the y-valve handle. The method chosen shall present a physical barrier to the use of the y-valve or toilet; and (v) every owner or operator of a marina within a designated no discharge zone to notify boat patrons leasing slips of the sewage discharge restriction in the no discharge zone. As a minimum, notification shall consist of no discharge zone information in the slip rental contract and a sign indicating the area is a designated no discharge zone.

In formulating regulations pursuant to this section, the Board shall consult with the State Department of Health, the Department of Game and Inland Fisheries Wildlife Resources, and the Marine Resources Commission for the purpose of coordinating such regulations with the activities of such agencies.

For purposes of this section, "no discharge zone" means an area where the Commonwealth has received an affirmative determination from the U.S. Environmental Protection Agency that there are adequate facilities for the removal of sewage from vessels (holding tank pump-out facilities) in accordance with 33 U.S.C. § 1322 (f)(3), and where federal approval has been received allowing a

complete prohibition of all treated or untreated discharges of sewage from all vessels.

C. Violation of such regulations and violations of the prohibitions created by this section on the discharge of treated and untreated sewage from documented and undocumented boats and vessels shall, upon conviction, be a Class 1 misdemeanor. Every law-enforcement officer of this Commonwealth and its subdivisions shall have the authority to enforce the regulations adopted under the provisions of this section and to enforce the prohibitions on the discharge of treated and untreated sewage created by this section.

**§ 62.1-44.34:25. Virginia Spill Response Council created; purpose; membership.**

A. There is hereby created the Virginia Spill Response Council. The purpose of the Council is to (i) improve the Commonwealth's capability to respond in a timely and coordinated fashion to incidents involving the discharge of oil or hazardous materials which pose a threat to the environment, its living resources, and the health, safety, and welfare of the people of the Commonwealth and (ii) provide an ongoing forum for discussions between agencies which are charged with the prevention of, and response to, oil spills and hazardous materials incidents, and those agencies responsible for the remediation of such incidents.

B. The Secretary of Natural Resources and the Secretary of Public Safety and Homeland Security, upon the advice of the director of the agency, shall select one representative from each of the following agencies to serve as a member of the Council: Department of Emergency Management, State Water Control Board, Department of Environmental Quality, Virginia Marine Resources Commission, Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, Department of Health, Department of Fire Programs, and the Council on the Environment.

C. The Secretary of Natural Resources or his designee shall serve as chairman of the Council.

**§ 62.1-250. State agency review.**

Prior to the creation of a surface water management area, or the issuance of a permit within one, the Board shall consult and cooperate with, and give full consideration to the written recommendations of, the following agencies: the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, the Department of Conservation and Recreation, the Virginia Marine Resources Commission, the Department of Health, and any other interested and affected agencies. Such consultation shall include the need for development of a means in the surface water management area for balancing instream uses with offstream uses. Agencies may submit written comments on proposed permits within forty-five days after notification by the Board. The Board shall assume that if written comments are not submitted by an agency, within the time period, the agency has no comments on the proposed permits.

**§ 65.2-402. Presumption as to death or disability from respiratory disease, hypertension or heart disease, cancer.**

A. Respiratory diseases that cause (i) the death of volunteer or salaried firefighters or Department of Emergency Management hazardous materials officers or (ii) any health condition or impairment of such firefighters or Department of Emergency Management hazardous materials officers resulting in total or partial disability shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

B. Hypertension or heart disease causing the death of, or any health condition or impairment resulting in total or partial disability of (i) salaried or volunteer firefighters, (ii) members of the State Police Officers' Retirement System, (iii) members of county, city or town police departments, (iv) sheriffs and deputy sheriffs, (v) Department of Emergency Management hazardous materials officers, (vi) city sergeants or deputy city sergeants of the City of Richmond, (vii) Virginia Marine Police officers, (viii) conservation police officers who are full-time sworn members of the enforcement division of the Department of ~~Game and Inland Fisheries~~ *Wildlife Resources*, (ix) Capitol Police officers, (x) special agents of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officers of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officers of the police force established and maintained by the Norfolk Airport Authority, (xiii) sworn officers of the police force established and maintained by the Virginia Port Authority, and (xiv) campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education shall be presumed to be occupational diseases, suffered in the line of duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary.

C. Leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer causing the death of, or any health condition or impairment resulting in total or partial disability of, any volunteer or salaried firefighter, Department of Emergency Management hazardous materials officer, commercial vehicle enforcement officer or motor carrier safety trooper employed by the Department of State Police, or full-time sworn member of the enforcement division of the Department of Motor Vehicles having



completed 12 years of continuous service who has a contact with a toxic substance encountered in the line of duty shall be presumed to be an occupational disease, suffered in the line of duty, that is covered by this title, unless such presumption is overcome by a preponderance of competent evidence to the contrary. For the purposes of this section, a "toxic substance" is one which is a known or suspected carcinogen, as defined by the International Agency for Research on Cancer, and which causes, or is suspected to cause, leukemia or pancreatic, prostate, rectal, throat, ovarian or breast cancer.

D. The presumptions described in subsections A, B, and C shall only apply if persons entitled to invoke them have, if requested by the private employer, appointing authority or governing body employing them, undergone preemployment physical examinations that (i) were conducted prior to the making of any claims under this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as prescribed by the private employer, appointing authority or governing body employing such persons, (iii) included such appropriate laboratory and other diagnostic studies as the private employer, appointing authorities or governing bodies may have prescribed, and (iv) found such persons free of respiratory diseases, hypertension, cancer or heart disease at the time of such examinations.

E. Persons making claims under this title who rely on such presumptions shall, upon the request of private employers, appointing authorities or governing bodies employing such persons, submit to physical examinations (i) conducted by physicians selected by such employers, authorities, bodies or their representatives and (ii) consisting of such tests and studies as may reasonably be required by such physicians. However, a qualified physician, selected and compensated by the claimant, may, at the election of such claimant, be present at such examination.

F. Whenever a claim for death benefits is made under this title and the presumptions of this section are invoked, any person entitled to make such claim shall, upon the request of the appropriate private employer, appointing authority or governing body that had employed the deceased, submit the body of the deceased to a postmortem examination as may be directed by the Commission. A qualified physician, selected and compensated by the person entitled to make the claim, may, at the election of such claimant, be present at such postmortem examination.

G. Volunteer emergency medical services personnel, volunteer law-enforcement chaplains, auxiliary and reserve deputy sheriffs, and auxiliary and reserve police are not included within the coverage of this section.

H. For purposes of this section, "firefighter" includes special forest wardens designated pursuant to § 10.1-1135 and any persons who are employed by or contract with private employers primarily to perform firefighting services.

**§ 65.2-402.1. Presumption as to death or disability from infectious disease.**

A. Hepatitis, meningococcal meningitis, tuberculosis or HIV causing the death of, or any health condition or impairment resulting in total or partial disability of, any (i) salaried or volunteer firefighter, or salaried or volunteer emergency medical services personnel, (ii) member of the State Police Officers' Retirement System, (iii) member of county, city or town police departments, (iv) sheriff or deputy sheriff, (v) Department of Emergency Management hazardous materials officer, (vi) city sergeant or deputy city sergeant of the City of Richmond, (vii) Virginia Marine Police officer, (viii) conservation police officer who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries Wildlife Resources, (ix) Capitol Police officer, (x) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (xi) for such period that the Metropolitan Washington Airports Authority voluntarily subjects itself to the provisions of this chapter as provided in § 65.2-305, officer of the police force established and maintained by the Metropolitan Washington Airports Authority, (xii) officer of the police force established and maintained by the Norfolk Airport Authority, (xiii) conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, (xiv) sworn officer of the police force established and maintained by the Virginia Port Authority, or (xv) any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 and employed by any public institution of higher education, who has a documented occupational exposure to blood or body fluids shall be presumed to be occupational diseases, suffered in the line of government duty, that are covered by this title unless such presumption is overcome by a preponderance of competent evidence to the contrary. For purposes of this section, an occupational exposure occurring on or after July 1, 2002, shall be deemed "documented" if the person covered under this section gave notice, written or otherwise, of the occupational exposure to his employer, and an occupational exposure occurring prior to July 1, 2002, shall be deemed "documented" without regard to whether the person gave notice, written or otherwise, of the occupational exposure to his employer.

B. As used in this section:

"Blood or body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as

4492 established by the Centers for Disease Control, apply. For purposes of potential transmission of hepatitis,  
4493 meningococcal meningitis, tuberculosis, or HIV the term "blood or body fluids" includes respiratory,  
4494 salivary, and sinus fluids, including droplets, sputum, saliva, mucous, and any other fluid through which  
4495 infectious airborne or blood-borne organisms can be transmitted between persons.

4496 "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C or any other  
4497 strain of hepatitis generally recognized by the medical community.

4498 "HIV" means the medically recognized retrovirus known as human immunodeficiency virus, type I or  
4499 type II, causing immunodeficiency syndrome.

4500 "Occupational exposure," in the case of hepatitis, meningococcal meningitis, tuberculosis or HIV,  
4501 means an exposure that occurs during the performance of job duties that places a covered employee at  
4502 risk of infection.

4503 C. Persons covered under this section who test positive for exposure to the enumerated occupational  
4504 diseases, but have not yet incurred the requisite total or partial disability, shall otherwise be entitled to  
4505 make a claim for medical benefits pursuant to § 65.2-603, including entitlement to an annual medical  
4506 examination to measure the progress of the condition, if any, and any other medical treatment,  
4507 prophylactic or otherwise.

4508 D. Whenever any standard, medically-recognized vaccine or other form of immunization or  
4509 prophylaxis exists for the prevention of a communicable disease for which a presumption is established  
4510 under this section, if medically indicated by the given circumstances pursuant to immunization policies  
4511 established by the Advisory Committee on Immunization Practices of the United States Public Health  
4512 Service, a person subject to the provisions of this section may be required by such person's employer to  
4513 undergo the immunization or prophylaxis unless the person's physician determines in writing that the  
4514 immunization or prophylaxis would pose a significant risk to the person's health. Absent such written  
4515 declaration, failure or refusal by a person subject to the provisions of this section to undergo such  
4516 immunization or prophylaxis shall disqualify the person from any presumption established by this  
4517 section.

4518 E. The presumptions described in subsection A shall only apply if persons entitled to invoke them  
4519 have, if requested by the appointing authority or governing body employing them, undergone  
4520 preemployment physical examinations that (i) were conducted prior to the making of any claims under  
4521 this title that rely on such presumptions, (ii) were performed by physicians whose qualifications are as  
4522 prescribed by the appointing authority or governing body employing such persons, (iii) included such  
4523 appropriate laboratory and other diagnostic studies as the appointing authorities or governing bodies may  
4524 have prescribed, and (iv) found such persons free of hepatitis, meningococcal meningitis, tuberculosis or  
4525 HIV at the time of such examinations. The presumptions described in subsection A shall not be effective  
4526 until six months following such examinations, unless such persons entitled to invoke such presumption  
4527 can demonstrate a documented exposure during the six-month period.

4528 F. Persons making claims under this title who rely on such presumption shall, upon the request of  
4529 appointing authorities or governing bodies employing such persons, submit to physical examinations (i)  
4530 conducted by physicians selected by such appointing authorities or governing bodies or their  
4531 representatives and (ii) consisting of such tests and studies as may reasonably be required by such  
4532 physicians. However, a qualified physician, selected and compensated by the claimant, may, at the  
4533 election of such claimant, be present at such examination.