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HOUSE BILL NO. 705

Offered January 8, 2020

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A *BILL to amend and reenact §§ 3.2-401, 10.1-1186.3, 10.1-1301, 10.1-1302, 10.1-1307, 10.1-1307.01, 10.1-1308.1, 10.1-1322.01, 10.1-1322.4, 10.1-1400, 10.1-1401, 10.1-1402.01, 10.1-1408.5, 15.2-2403.3, as it shall become effective, 15.2-5101, 28.2-1205.1, 45.1-254, 46.2-1601, 62.1-44.3, as it is currently effective and as it may become effective, 62.1-44.8, 62.1-242, 62.1-255, and 67-401 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 62.1-44.2:1, relating to state air, waste, and water boards; permit authority; appointment of members.*

Patron—Keam

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-401, 10.1-1186.3, 10.1-1301, 10.1-1302, 10.1-1307, 10.1-1307.01, 10.1-1308.1, 10.1-1322.01, 10.1-1322.4, 10.1-1400, 10.1-1401, 10.1-1402.01, 10.1-1408.5, 15.2-2403.3, as it shall become effective, 15.2-5101, 28.2-1205.1, 45.1-254, 46.2-1601, 62.1-44.3, as it is currently effective and as it may become effective, 62.1-44.8, 62.1-242, 62.1-255, and 67-401 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 62.1-44.2:1 as follows:

§ 3.2-401. Exclusions from chapter.

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

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

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

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

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

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

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

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

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

Mediation and alternative dispute resolution as authorized by this section are voluntary procedures which supplement rather than limit other dispute resolution techniques available to the Boards *and the Department*. Mediation or a dispute resolution proceeding may be employed in the issuance of a permit only with the consent and participation of the permit applicant and shall be terminated at the request of the permit applicant.

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

C. The outcome of any mediation or dispute resolution proceeding shall not be binding upon a Board

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59 *or the Department*, but may be considered by a Board *or the Department* in issuing a permit or
60 promulgating a regulation.

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

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

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

76 **§ 10.1-1301. State Air Pollution Control Board; membership; terms; vacancies.**

77 The State Air Pollution Control Board shall be composed of seven members appointed *as follows*:
78 *two members appointed by the Governor; two members appointed by the Senate Committee on Rules*
79 *from a list recommended by the Senate Committee on Agriculture, Conservation and Natural Resources;*
80 *and three members appointed by the Speaker of the House from a list recommended by the House*
81 *Committee on Agriculture, Chesapeake and Natural Resources* for four-year terms. Vacancies other than
82 by expiration of term shall be filled by the ~~Governor~~ *appointing authority* by appointment for the
83 unexpired term.

84 **§ 10.1-1302. Qualifications of members of Board.**

85 The members of the Board shall be citizens of the Commonwealth and shall be selected from the
86 Commonwealth at large on the basis of merit without regard to political affiliation. Members shall, by
87 their education, training, or experience, be knowledgeable of air quality control and regulation, and shall
88 be fairly representative of conservation, public health, business, and agriculture. No person appointed to
89 the Board shall be employed by persons subject to permits *of the Department* or enforcement orders of
90 the Board or receive a significant portion of his income, whether directly or indirectly, from persons
91 subject to permits *of the Department* or enforcement orders of the Board. Income from a vested
92 retirement benefit shall not be considered income for purposes of this section. Notwithstanding any other
93 provision of this section relating to Board membership, the qualifications for Board membership shall
94 not be more strict than those that are required by federal statute or regulations of the United States U.S.
95 Environmental Protection Agency. The provisions of this section shall be in addition to the requirements
96 of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

97 **§ 10.1-1307. Further powers and duties of Board.**

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

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

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

117 D. After the Board has adopted the regulations provided for in § 10.1-1308, it shall have the power
118 to: (i) initiate and receive complaints as to air pollution; (ii) hold or cause to be held hearings and enter
119 orders diminishing or abating the causes of air pollution and orders to enforce its regulations pursuant to
120 § 10.1-1309; and (iii) institute legal proceedings, including suits for injunctions for the enforcement of

121 its orders, regulations, and the abatement and control of air pollution and for the enforcement of
122 penalties.

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

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

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

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

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

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

136 G. The Board shall not:

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

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

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

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

144 After June 30, 1994, ~~the Board~~, before promulgating any regulation under consideration, ~~or granting~~
145 any variance to an existing regulation, ~~or and the Department~~, before issuing any permit for the
146 construction of a new major source or for a major modification to an existing source, if ~~the Board finds~~
147 *it is found* that there are localities particularly affected by the regulation, variance, or permit, the Board
148 ~~or the Department~~ shall, *respectively*:

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

154 2. Mail the notice to the chief elected official and chief administrative officer and the planning
155 district commission for those localities.

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

159 For the purposes of this section, the term "locality particularly affected" means any locality which
160 bears any identified disproportionate material air quality impact which would not be experienced by
161 other localities.

162 **§ 10.1-1308.1. Streamlined permitting process for qualified energy generators.**

163 A. As used in this section:

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

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

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

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

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

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

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

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

179 "Expedited process" means a process that (i) requires the applicant to pay fees to the Commonwealth
180 in connection with the issuance and processing of the permit application that do not exceed \$50 and (ii)
181 has a duration, from receipt of a complete permit application until final action by the ~~Board or~~

182 Department on the application, not longer than 60 days.

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

187 B. The Board shall develop an expedited process for issuing any permit that the ~~Board~~ *Department* is
188 required to issue for the construction or operation of a qualified energy generator. The development of
189 the expedited permitting process shall be in accordance with subdivision A 8 of § 2.2-4006; however, if
190 the construction or operation of a qualified energy generator is subject to a major new source review
191 program required by § 110(a)(2)(C) of the federal Clean Air Act, this section shall not apply.

192 **§ 10.1-1322.01. Permits; procedures for public hearings.**

193 A. During the public comment period on a permit action, interested persons may request a public
194 hearing to contest such action or the terms and conditions thereof. Where public hearings are mandatory
195 under state or federal law or regulation, interested persons may request, during the public comment
196 period on the permit action, that the ~~Board~~ *Department* consider the permit action pursuant to the
197 requirements of this section.

198 B. Requests for a public hearing ~~or Board consideration~~ shall contain the following information:

- 199 1. The name, mailing address, and telephone number of the requester;
- 200 2. The names and addresses of all persons for whom the requester is acting as a representative (for
201 the purposes of this requirement, an unincorporated association is a person);
- 202 3. The reason why a public hearing ~~or Board consideration~~ is requested;
- 203 4. A brief, informal statement setting forth the factual nature and the extent of the interest of the
204 requester or of the persons for whom the requester is acting as representative in the application or
205 tentative determination, including an explanation of how and to what extent such interest would be
206 directly and adversely affected by the issuance, denial, modification, or revocation of the permit in
207 question; and
- 208 5. Where possible, specific references to the terms and conditions of the permit in question, together
209 with suggested revisions and alterations of those terms and conditions that the requester considers are
210 needed to conform the permit to the intent and provisions of the State Air Pollution Control Law
211 (§ 10.1-1300 et seq.).

212 C. Upon completion of the public comment period on a permit action, the Director shall review all
213 timely requests for public hearing ~~or Board consideration~~ filed during the public comment period on the
214 permit action ~~and within~~.

215 D. *Within* 30 calendar days following the expiration of the time period for the submission of
216 requests, *the Director* shall grant a public hearing ~~or Board consideration~~ after the public hearing
217 required by state or federal law or regulation, unless the permittee or applicant agrees to a later date, if
218 the Director finds the following:

- 219 1. That there is a significant public interest in the issuance, denial, modification, or revocation of the
220 permit in question as evidenced by receipt of a minimum of 25 individual requests for a public hearing
221 ~~or Board consideration~~;
- 222 2. That the requesters raise substantial, disputed issues relevant to the issuance, denial, modification,
223 or revocation of the permit in question; and
- 224 3. That the action requested by the interested party is not on its face inconsistent with, or in violation
225 of, the State Air Pollution Control Law (§ 10.1-1300 et seq.), federal law or any regulation promulgated
226 thereunder.

227 D. Either the Director or a majority of the Board members, acting independently, may request a
228 meeting of the Board to be convened within 20 days of the Director's decision pursuant to subsection C
229 in order to review such decision and determine by a majority vote of the Board whether or not to grant
230 a public hearing ~~or Board consideration~~, or to delegate the permit to the Director for his decision.

231 For purposes of this subsection, if a Board meeting is held via electronic communication means, the
232 meeting shall be held in compliance with the provisions of ~~§ 2.2-3708.2~~, except that a quorum of the
233 Board is not required to be physically assembled at one primary or central meeting location. Discussions
234 of the Board held via such electronic communication means shall be specifically limited to a (i) review
235 of the Director's decision pursuant to subsection C, (ii) determination of the Board whether or not to
236 grant a public hearing ~~or Board consideration~~, or (iii) delegation of the permit to the Director for his
237 decision. No other matter of public business shall be discussed or transacted by the Board during any
238 such meeting held via electronic communication means.

239 E. The Director shall, forthwith, notify by mail at his last known address (i) each requester and (ii)
240 the applicant or permittee of the decision to grant or deny a public hearing ~~or Board consideration~~.

241 F. In addition to subsections C, *subsection D*, and E, the Director may, in his discretion, convene a
242 public hearing on a permit action ~~or submit a permit action to the Board for its consideration~~.

243 G. If a determination is made to hold a public hearing, the Director shall schedule the hearing at a

244 time between 45 and 75 days after mailing of the notice required by subsection E.

245 H. The Director shall cause, or require the applicant to publish, notice of a public hearing to be
246 published once, in a newspaper of general circulation in the city or county where the facility or
247 operation that is the subject of the permit or permit application is located, at least 30 days before the
248 hearing date.

249 I. The Director may, on his own motion or at the request of the applicant or permittee, for good
250 cause shown, reschedule the date of the public hearing. In the event the Director reschedules the date for
251 the public hearing after notice has been published, he shall, or require the applicant to, provide
252 reasonable notice of the new date of the public hearing. Such notice shall be published once in the same
253 newspaper where the original notice was published.

254 J. Public hearings held pursuant to these procedures may be conducted by ~~(i) the Board at a regular
255 or special meeting of the Board or (ii) one or more members of the Board. A member of the Board the~~
256 *Department. The Director shall preside over the public hearing.*

257 K. The *Director, in presiding Board member*, shall have the authority to maintain order, preserve the
258 impartiality of the decision process, and conclude the hearing process expeditiously. The ~~presiding Board~~
259 ~~member Director~~, in order to carry out his responsibilities under this subsection, is authorized to
260 exercise the following powers, including but not limited to:

261 1. Prescribing the methods and procedures to be used in the presentation of factual data, arguments,
262 and proof orally and in writing including the imposition of reasonable limitations on the time permitted
263 for oral testimony;

264 2. Consolidating the presentation of factual data, arguments, and proof to avoid repetitive
265 presentation of them;

266 3. Ruling on procedural matters; and

267 4. Acting as custodian of the record of the public hearing causing all notices and written submittals
268 to be entered in it.

269 L. The public comment period will remain open for 15 days after the close of the public hearing if
270 required by § 10.1-1307.01.

271 M. ~~When the public hearing is conducted by less than a quorum of the Board, the Department shall,
272 promptly after the close of the public hearing comment period, make a report to the Board.~~

273 ~~N.~~ After the close of the public hearing comment period, the *Board Department* shall, at a regular or
274 special meeting, take final action on the permit. Such decision shall be issued within 90 days of the
275 close of the public comment period or from a later date, as agreed to by the permittee or applicant and
276 ~~the Board or the Director. The Board Department shall not take any action on a permit where a public~~
277 ~~hearing was convened solely to satisfy the requirements of state or federal law or regulation unless the~~
278 ~~permit was provided to the Board Department for its consideration pursuant to the provisions of this~~
279 ~~section.~~

280 ~~O. When the public hearing was conducted by less than a quorum of the Board, persons who~~
281 ~~commented during the public comment period shall be afforded an opportunity at the Board meeting~~
282 ~~when final action is scheduled to respond to any summaries of the public comments prepared by the~~
283 ~~Department for the Board's consideration subject to such reasonable limitations on the time permitted for~~
284 ~~oral testimony or presentation of repetitive material as are determined by the Board.~~

285 ~~P. N.~~ In making its decision, the *Board Department* shall consider (i) the verbal and written
286 comments received during the public comment period made part of the record, (ii) any explanation of
287 comments previously received during the public comment period made at the ~~Board meeting hearing~~,
288 (iii) the comments and recommendation of the *Department Director*, and (iv) the agency files. When the
289 decision of the *Board Department* is to adopt the recommendation of the *Department Director*, the
290 *Board Department* shall provide in writing a clear and concise statement of the legal basis and
291 justification for the decision reached. When the decision of the *Board Department* varies from the
292 recommendation of the *Department Director*, the Board shall, in consultation with legal counsel, provide
293 a clear and concise statement explaining the reason for the variation and how the ~~Board's~~ decision is in
294 compliance with applicable laws and regulations. The written statement shall be provided
295 contemporaneously with the decision of the *Board Department*. Copies of the decision, certified by the
296 Director, shall be mailed by certified mail to the permittee or applicant.

297 **§ 10.1-1322.4. Permit modifications for alternative fuels or raw materials.**

298 Unless required by federal law or regulation, no additional permit or permit modifications shall be
299 required by ~~the Board~~ for the use, by any source, of an alternative fuel or raw material, if the owner
300 demonstrates ~~to the Board~~ that as a result of trial burns at his facility or other facilities or other
301 sufficient data that the emissions resulting from the use of the alternative fuel or raw material supply are
302 decreased. To the extent allowed by federal law or regulation, no demonstration shall be required for the
303 use of processed animal fat, processed fish oil, processed vegetable oil, distillate oil, or any mixture
304 thereof in place of the same quantity of residual oil to fire industrial boilers.

305 § 10.1-1400. Definitions.

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

307 "Applicant" means any and all persons seeking or holding a permit required under this chapter.

308 "Board" means the Virginia Waste Management Board.

309 "Composting" means the manipulation of the natural aerobic process of decomposition of organic
310 materials to increase the rate of decomposition.

311 "Department" means the Department of Environmental Quality.

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

313 "Disclosure statement" means a sworn statement or affirmation, in such form as may be required by
314 the Director, which includes:

315 1. The full name and business address of all key personnel;

316 2. The full name and business address of any entity, other than a natural person, that collects,
317 transports, treats, stores, or disposes of solid waste or hazardous waste in which any key personnel holds
318 an equity interest of five percent or more;

319 3. A description of the business experience of all key personnel listed in the disclosure statement;

320 4. A listing of all permits or licenses required for the collection, transportation, treatment, storage or
321 disposal of solid waste or hazardous waste issued to or held by any key personnel within the past 10
322 years;

323 5. A listing and explanation of any notices of violation, prosecutions, administrative orders (whether
324 by consent or otherwise), license or permit suspensions or revocations, or enforcement actions of any
325 sort by any state, federal or local authority, within the past 10 years, which are pending or have
326 concluded with a finding of violation or entry of a consent agreement, regarding an allegation of civil or
327 criminal violation of any law, regulation or requirement relating to the collection, transportation,
328 treatment, storage or disposal of solid waste or hazardous waste by any key personnel, and an itemized
329 list of all convictions within 10 years of key personnel of any of the following crimes punishable as
330 felonies under the laws of the Commonwealth or the equivalent thereof under the laws of any other
331 jurisdiction: murder; kidnapping; gambling; robbery; bribery; extortion; criminal usury; arson; burglary;
332 theft and related crimes; forgery and fraudulent practices; fraud in the offering, sale, or purchase of
333 securities; alteration of motor vehicle identification numbers; unlawful manufacture, purchase, use or
334 transfer of firearms; unlawful possession or use of destructive devices or explosives; violation of the
335 Drug Control Act, Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1; racketeering; or violation of antitrust
336 laws;

337 6. A listing of all agencies outside the Commonwealth which have regulatory responsibility over the
338 applicant or have issued any environmental permit or license to the applicant within the past 10 years, in
339 connection with the applicant's collection, transportation, treatment, storage, or disposal of solid waste or
340 hazardous waste;

341 7. Any other information about the applicant and the key personnel that the Director may require that
342 reasonably relates to the qualifications and ability of the key personnel or the applicant to lawfully and
343 competently operate a solid waste management facility in Virginia; and

344 8. The full name and business address of any member of the local governing body or planning
345 commission in which the solid waste management facility is located or proposed to be located, who
346 holds an equity interest in the facility.

347 "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid
348 waste into or on any land or water so that such solid waste or any constituent thereof may enter the
349 environment or be emitted into the air or discharged into any waters, including ground waters.

350 "Equity" includes both legal and equitable interests.

351 "Federal acts" means any act of Congress providing for waste management and regulations
352 promulgated thereunder.

353 "Hazardous material" means a substance or material in a form or quantity which may pose an
354 unreasonable risk to health, safety or property when transported, and which the Secretary of
355 Transportation of the United States has so designated by regulation or order.

356 "Hazardous substance" means a substance listed under United States Public Law 96-510, entitled the
357 Comprehensive Environmental Response Compensation and Liability Act.

358 "Hazardous waste" means a solid waste or combination of solid waste which, because of its quantity,
359 concentration or physical, chemical or infectious characteristics, may:

360 1. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible
361 or incapacitating illness; or

362 2. Pose a substantial present or potential hazard to human health or the environment when
363 improperly treated, stored, transported, disposed of, or otherwise managed.

364 "Hazardous waste generation" means the act or process of producing hazardous waste.

365 "Household hazardous waste" means any waste material derived from households (including single
366 and multiple residences, hotels, motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic

367 grounds and day-use recreation areas) which, except for the fact that it is derived from a household,
 368 would be classified as a hazardous waste, including but not limited to, nickel, cadmium, mercuric oxide,
 369 manganese, zinc-carbon or lead batteries; solvent-based paint, paint thinner, paint strippers, or other paint
 370 solvents; any product containing trichloroethylene, toxic art supplies, used motor oil and unusable
 371 gasoline or kerosene, fluorescent or high intensity light bulbs, ammunition, fireworks, banned pesticides,
 372 or restricted-use pesticides as defined in § 3.2-3900. All empty household product containers and any
 373 household products in legal distribution, storage or use shall not be considered household hazardous
 374 waste.

375 "Key personnel" means the applicant itself and any person employed by the applicant in a managerial
 376 capacity, or empowered to make discretionary decisions, with respect to the solid waste or hazardous
 377 waste operations of the applicant in Virginia, but shall not include employees exclusively engaged in the
 378 physical or mechanical collection, transportation, treatment, storage, or disposal of solid or hazardous
 379 waste and such other employees as the Director may designate by regulation. If the applicant has not
 380 previously conducted solid waste or hazardous waste operations in Virginia, the term also includes any
 381 officer, director, partner of the applicant, or any holder of five percent or more of the equity or debt of
 382 the applicant. If any holder of five percent or more of the equity or debt of the applicant or of any key
 383 personnel is not a natural person, the term includes all key personnel of that entity, provided that where
 384 such entity is a chartered lending institution or a reporting company under the Federal Securities
 385 Exchange Act of 1934, the term does not include key personnel of such entity. Provided further that the
 386 term means the chief executive officer of any agency of the United States or of any agency or political
 387 subdivision of the Commonwealth, and all key personnel of any person, other than a natural person, that
 388 operates a landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste
 389 under contract with or for one of those governmental entities.

390 "Manifest" means the form used for identifying the quantity, composition, origin, routing and
 391 destination of hazardous waste during its transportation from the point of generation to the point of
 392 disposal, treatment or storage of such hazardous waste.

393 "Mixed radioactive waste" means radioactive waste that contains a substance which renders the
 394 mixture a hazardous waste.

395 "Open dump" means a site on which any solid waste is placed, discharged, deposited, injected,
 396 dumped or spilled so as to create a nuisance or present a threat of a release of harmful substances into
 397 the environment or present a hazard to human health.

398 "Person" includes an individual, corporation, partnership, association, a governmental body, a
 399 municipal corporation or any other legal entity.

400 "Radioactive waste" or "nuclear waste" includes:

401 1. "Low-level radioactive waste" material that:

402 a. Is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as
 403 defined in section 11(e)(2) of the Atomic Energy Act of 1954 (42 U.S.C. § 2014(e)(2)); and

404 b. The Nuclear Regulatory Commission, consistent with existing law, classifies as low-level
 405 radioactive waste; or

406 2. "High-level radioactive waste" which means:

407 a. The highly radioactive material resulting from the reprocessing of spent nuclear fuel, including
 408 liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that
 409 contains fission products in sufficient concentrations; and

410 b. Other highly radioactive material that the Nuclear Regulatory Commission, consistent with existing
 411 law, determines by rule requires permanent isolation.

412 "Recycling residue" means the (i) nonmetallic substances, including but not limited to plastic, rubber,
 413 and insulation, which remain after a shredder has separated for purposes of recycling the ferrous and
 414 nonferrous metal from a motor vehicle, appliance, or other discarded metallic item and (ii) organic waste
 415 remaining after removal of metals, glass, plastics and paper which are to be recycled as part of a
 416 resource recovery process for municipal solid waste resulting in the production of a refuse derived fuel.

417 "Resource conservation" means reduction of the amounts of solid waste that are generated, reduction
 418 of overall resource consumption and utilization of recovered resources.

419 "Resource recovery" means the recovery of material or energy from solid waste.

420 "Resource recovery system" means a solid waste management system which provides for collection,
 421 separation, recycling and recovery of solid wastes, including disposal of nonrecoverable waste residues.

422 "Sanitary landfill" means a disposal facility for solid waste so located, designed and operated that it
 423 does not pose a substantial present or potential hazard to human health or the environment, including
 424 pollution of air, land, surface water or ground water.

425 "Sludge" means any solid, semisolid or liquid wastes with similar characteristics and effects
 426 generated from a public, municipal, commercial or industrial wastewater treatment plant, water supply
 427 treatment plant, air pollution control facility or any other waste producing facility.

428 "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid,
 429 semisolid or contained gaseous material, resulting from industrial, commercial, mining and agricultural
 430 operations, or community activities but does not include (i) solid or dissolved material in domestic
 431 sewage, (ii) solid or dissolved material in irrigation return flows or in industrial discharges which are
 432 sources subject to a *water-related* permit from the ~~State Water Control Board~~ *Department*, or (iii)
 433 source, special nuclear, or by-product material as defined by the Federal Atomic Energy Act of 1954, as
 434 amended.

435 "Solid waste management facility" means a site used for planned treating, long term storage, or
 436 disposing of solid waste. A facility may consist of several treatment, storage, or disposal units.

437 "Transport" or "transportation" means any movement of property and any packing, loading, unloading
 438 or storage incidental thereto.

439 "Treatment" means any method, technique or process, including incineration or neutralization,
 440 designed to change the physical, chemical or biological character or composition of any waste to
 441 neutralize it or to render it less hazardous or nonhazardous, safer for transport, amenable to recovery or
 442 storage or reduced in volume.

443 "Vegetative waste" means decomposable materials generated by yard and lawn care or land-clearing
 444 activities and includes, but is not limited to, leaves, grass trimmings, and woody wastes such as shrub
 445 and tree prunings, bark, limbs, roots, and stumps.

446 "Waste" means any solid, hazardous or radioactive waste as defined in this section.

447 "Waste management" means the collection, source separation, storage, transportation, transfer,
 448 processing, treatment and disposal of waste or resource recovery.

449 "Yard waste" means decomposable waste materials generated by yard and lawn care and includes
 450 leaves, grass trimmings, brush, wood chips, and shrub and tree trimmings. Yard waste shall not include
 451 roots or stumps that exceed six inches in diameter.

452 **§ 10.1-1401. Virginia Waste Management Board continued.**

453 A. The Virginia Waste Management Board shall consist of seven Virginia residents appointed as
 454 follows: *two members appointed by the Governor; two members appointed by the Senate Committee on*
 455 *Rules from a list recommended by the Senate Committee on Agriculture, Conservation and Natural*
 456 *Resources; and three members appointed by the Speaker of the House from a list recommended by the*
 457 *House Committee on Agriculture, Chesapeake and Natural Resources* for terms of four years. The
 458 members of the Board shall be citizens of the Commonwealth and shall be selected from the
 459 Commonwealth at large on the basis of merit without regard to political affiliation. Members shall, by
 460 their education, training, or experience, be knowledgeable of waste management and shall be fairly
 461 representative of agriculture, conservation, industry, and public health. Vacancies occurring other than by
 462 expiration of a term shall be filled by the ~~Governor~~ *appointing authority* for the unexpired portion of the
 463 term.

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

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

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

472 **§ 10.1-1402.01. Further duties of Board; localities particularly affected.**

473 After June 30, 1994, *the Board*, before promulgating any regulation under consideration or granting
 474 any variance to an existing regulation, ~~or and the Department~~, *before* issuing any treatment, storage, or
 475 disposal permit, except for an emergency permit, if ~~the Board finds it is found~~ that there are localities
 476 particularly affected by the regulation, variance or permit, ~~the Board~~ shall, *respectively*:

477 1. Publish, or require the applicant to publish, a notice in a local paper of general circulation in the
 478 localities affected at least ~~thirty~~ 30 days prior to the close of any public comment period. Such notice
 479 shall contain a statement of the estimated local impact of the proposed action, which at a minimum shall
 480 include information on the location and type of waste treated, stored or disposed.

481 2. Mail the notice to the chief elected official and chief administrative officer and planning district
 482 commission for those localities.

483 Written comments shall be accepted by the Board *or the Department* for at least ~~fifteen~~ 15 days after
 484 any hearing on the regulation, variance, or permit, unless the Board ~~votes or the Department decides~~ to
 485 shorten the period.

486 For the purposes of this section, the term "locality particularly affected" means any locality which
 487 bears any identified disproportionate material environmental impact which would not be experienced by
 488 other localities. For the purposes of this section, the transportation of waste shall not constitute a
 489 material environmental impact.

490 **§ 10.1-1408.5. Special provisions regarding wetlands.**

491 A. The Director shall not issue any solid waste permit for a new municipal solid waste landfill or the
 492 expansion of a municipal solid waste landfill that would be sited in a wetland, provided that this
 493 subsection shall not apply to subsection B or the (i) expansion of an existing municipal solid waste
 494 landfill located in the City of Danville or the City of Suffolk when the owner or operator of the landfill
 495 is an authority created pursuant to § 15.2-5102 that has applied for a permit under § 404 of the federal
 496 Clean Water Act prior to January 1, 1989, and the owner or operator has received a permit under § 404
 497 of the federal Clean Water Act and the Virginia Water Resources and Wetlands Protection Program,
 498 Article 2.2 (§ 62.1-44.15:20 et seq.) of Chapter 3.1 of Title 62.1, or (ii) construction of a new municipal
 499 solid waste landfill in Mecklenburg County and provided that the municipal solid waste landfills covered
 500 under clauses (i) and (ii) have complied with all other applicable federal and state environmental laws
 501 and regulations. It is expressly understood that while the provisions of this section provide an exemption
 502 to the general siting prohibition contained herein; it is not the intent in so doing to express an opinion
 503 on whether or not the project should receive the necessary environmental and regulatory permits to
 504 proceed. For the purposes of this section, the term "expansion of a municipal solid waste landfill" shall
 505 include the siting and construction of new cells or the expansion of existing cells at the same location.

506 B. The Director may issue a solid waste permit for the expansion of a municipal solid waste landfill
 507 located in a wetland only if the following conditions are met: (i) the proposed landfill site is at least 100
 508 feet from any surface water body and at least one mile from any tidal wetland; (ii) the Director
 509 determines, based upon the existing condition of the wetland system, including, but not limited to,
 510 sedimentation, toxicity, acidification, nitrification, vegetation, and proximity to existing permitted waste
 511 disposal areas, roads or other structures, that the construction or restoration of a wetland system in
 512 another location in accordance with a Virginia Water Protection Permit approved by the ~~State Water~~
 513 ~~Control Board~~ *Department* would provide higher quality wetlands; and (iii) the permit requires a
 514 minimum two-to-one wetlands mitigation ratio. This subsection shall not apply to the exemptions
 515 provided in clauses (i) and (ii) of subsection A.

516 C. Ground water monitoring shall be conducted at least quarterly by the owner or operator of any
 517 existing solid waste management landfill, accepting municipal solid waste, that was constructed on a
 518 wetland, has a potential hydrologic connection to such a wetland in the event of an escape of liquids
 519 from the facility, or is within a mile of such a wetland, unless the Director determines that less frequent
 520 monitoring is necessary. This provision shall not limit the authority of the Board or the Director to
 521 require that monitoring be conducted more frequently than quarterly. If the landfill is one that accepts
 522 only ash, ground water monitoring shall be conducted semiannually, unless more frequent monitoring is
 523 required by the Board or the Director. All results shall be reported to the Department.

524 D. This section shall not apply to landfills which impact less than two acres of nontidal wetlands.

525 E. For purposes of this section, "wetland" means any tidal wetland or nontidal wetland contiguous to
 526 any tidal wetland or surface water body.

527 F. There shall be no additional exemptions granted from this section unless (i) the proponent has
 528 submitted to the Department an assessment of the potential impact to wetlands, the need for the
 529 exemption, and the alternatives considered and (ii) the Department has made the information available
 530 for public review for at least 60 days prior to the first day of the next Regular Session of the General
 531 Assembly.

532 **§ 15.2-2403.3. (For contingent effective date, see Acts 2016, cc. 68 and 758, as amended by Acts**
 533 **2017, c. 345) Stormwater service districts; allocation of revenues.**

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

539 **§ 15.2-5101. Definitions.**

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

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

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

546 "Cost," as applied to a system, includes the purchase price of the system or the cost of acquiring all
 547 of the capital stock of the corporation owning such system and the amount to be paid to discharge all of
 548 its obligations in order to vest title to the system or any part thereof in the authority; the cost of
 549 improvements; the cost of all land, properties, rights, easements, franchises and permits acquired; the
 550 cost of all labor, machinery and equipment; financing and credit enhancement charges; interest prior to

551 and during construction and for one year after completion of construction; any deposit to any bond
552 interest and principal reserve account, start-up costs and reserves and expenditures for operating capital;
553 cost of engineering and legal services, plans, specifications, surveys, estimates of costs and revenues;
554 other expenses necessary or incident to the determining of the feasibility or practicability of any such
555 acquisition, improvement, or construction; administrative expenses and such other expenses as may be
556 necessary or incident to the financing authorized in this chapter and to the acquisition, improvement, or
557 construction of any such system and the placing of the system in operation by the authority. Any
558 obligation or expense incurred by an authority in connection with any of the foregoing items of cost and
559 any obligation or expense incurred by the authority prior to the issuance of revenue bonds under the
560 provisions of this chapter for engineering studies, for estimates of cost and revenues, and for other
561 technical or professional services which may be utilized in the acquisition, improvement or construction
562 of such system is a part of the cost of such system.

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

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

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

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

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

581 "Political subdivision" means a locality or any institution or commission of the Commonwealth of
582 Virginia.

583 "Refuse" means solid waste, including sludge and other discarded material, such as solid, liquid,
584 semi-solid or contained gaseous material resulting from industrial, commercial, mining, and agricultural
585 operations or from community activities or residences. "Refuse" does not include (i) solid and dissolved
586 materials in domestic sewage, (ii) solid or dissolved material in irrigation return flows or in industrial
587 discharges which are sources subject to a permit from the ~~State Water Control Board~~ *Department of*
588 *Environmental Quality*, or (iii) source, special nuclear, or by-product material as defined by the Federal
589 Atomic Energy Act of 1954 (42 U.S.C. § 2011, et seq.), as amended.

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

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

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

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

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

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

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

613 "Water or waste system" means any water system, sewer system, sewage disposal system, or refuse
 614 collection and disposal system, or any combination of such systems. "Water system" means all plants,
 615 systems, facilities or properties used or useful or having the present capacity for future use in connection
 616 with the supply or distribution of water, or facilities incident thereto, and any integral part thereof,
 617 including water supply systems, water distribution systems, dams and facilities for the generation or
 618 transmission of hydroelectric power, reservoirs, wells, intakes, mains, laterals, pumping stations,
 619 standpipes, filtration plants, purification plants, hydrants, meters, valves and equipment, appurtenances,
 620 and all properties, rights, easements and franchises relating thereto and deemed necessary or convenient
 621 by the authority for the operation thereof but not including dams or facilities for the generation or
 622 transmission of hydroelectric power that are not incident to plants, systems, facilities or properties used
 623 or useful or having the present capacity for future use in connection with the supply or distribution of
 624 water.

625 **§ 28.2-1205.1. Coordinated review of water resources projects.**

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

629 B. The Commissioner and the Director of the Department of Environmental Quality, in consultation
 630 with the Virginia Institute of Marine Science, the Department of Game and Inland Fisheries, the
 631 Department of Historic Resources, the Department of Health, the Department of Conservation and
 632 Recreation, the Virginia Department of Agriculture and Consumer Services, and any other appropriate or
 633 interested state agency, shall coordinate the joint review process to ensure the orderly evaluation of
 634 projects requiring both permits.

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

648 **§ 45.1-254. National pollutant discharge elimination system permits.**

649 A. The authority to issue, amend, revoke and enforce national pollutant discharge elimination system
 650 permits under the State Water Control Law (§ 62.1-44.2 et seq.) for the discharge of sewage, industrial
 651 wastes and other wastes from coal surface mining operations, to the extent delegated by the U.S.
 652 Environmental Protection Agency and required under the federal Clean Water Act, P.L. 92-500, as
 653 amended, is vested solely in the Director, notwithstanding any provision of law contained in Title 62.1,
 654 except as provided herein. For the purpose of enforcement under this section, the provisions of
 655 §§ 62.1-44.31 and 62.1-44.32 shall apply to permits, orders and regulations issued by the Director in
 656 accordance with this section.

657 B. The Director shall transmit to the ~~State Water Control Board~~ *Department of Environmental*
 658 *Quality* a copy of each application for a national pollutant discharge elimination system permit received
 659 by the Director, and provide written notice to the ~~State Water Control Board~~ *Department of*
 660 *Environmental Quality* of every action related to the consideration of such permit application.

661 C. Prior to the issuance or reissuance of a permit, applicants shall submit an application on a form
 662 approved by the Director and a fee of \$300 for each discharge outfall point under the permit. If an
 663 application is approved the permittee shall, on the anniversary of the permit approval for each year of
 664 the permit term, submit \$300 for each discharge outfall point under the permit. Each permit shall remain
 665 valid for five years. All fees provided for under this section shall be in addition to any other fees levied
 666 pursuant to this chapter.

667 D. No national pollutant discharge elimination system permit shall be issued if, within 30 days of the
 668 date of the transmittal of the complete application and the proposed national pollution discharge
 669 elimination system permit, the State Water Control Board objects in writing to the issuance of such
 670 permit. Whenever the State Water Control Board objects to the issuance of such permit under this
 671 section, such written objection shall contain a statement of the reasons for such objection and the
 672 effluent limitations and conditions which such permits would include if it were issued by the ~~State~~
 673 ~~Water Control Board~~ *Department of Environmental Quality*.

674 E. An applicant who is aggrieved by an objection made under subsection D of this section shall have
675 the right to a hearing before the State Water Control Board pursuant to § 62.1-44.25. If the State Water
676 Control Board withdraws, in writing, its objection to the issuance of a certificate, the Director may issue
677 the permit. Any applicant, aggrieved by a final decision of the State Water Control Board made pursuant
678 to this subsection, shall have the right to judicial review in accordance with the provisions of the
679 Administrative Process Act (§ 2.2-4000 et seq.).

680 F. Whenever, on the basis of any information available to it, the State Water Control Board finds
681 that any person is in violation of any condition or limitation contained in a national pollutant discharge
682 elimination system permit issued by the Director, it shall notify the person in alleged violation and the
683 Director. If beyond the thirtieth day after notification by the State Water Control Board, the Director has
684 not commenced appropriate enforcement action, the State Water Control Board may take appropriate
685 enforcement action pursuant to §§ 62.1-44.15, 62.1-44.23, and 62.1-44.32.

686 G. The Director shall promulgate such regulations as deemed necessary for the issuance,
687 administration, monitoring and enforcement of national pollutant discharge elimination system permits
688 for coal surface mining operations.

689 H. For the purpose of this section, the terms "sewage," "industrial wastes" and "other wastes" shall
690 have the meanings ascribed to them in § 62.1-44.3.

691 I. The Director, by examining the available and relevant data, shall determine whether a discharge
692 may cause or contribute to an instream excursion above the narrative or numeric criteria of a water
693 quality standard.

694 J. If a total maximum daily load (TMDL) has been established by the State Water Control Board for
695 the receiving water body, then there shall be consideration of the TMDL in the reasonable potential
696 determination as to whether a discharge may cause or contribute to an instream excursion above the
697 narrative or numeric criteria of a water quality standard. If the receiving water body does not have a
698 TMDL established, the Director may consider biological monitoring, chemical monitoring, and whole
699 effluent toxicity testing to determine whether a discharge may cause or contribute to an instream
700 excursion above the narrative or numeric criteria of a water quality standard. The Director may require
701 whole effluent toxicity testing if he determines that the discharge adversely affects the biological
702 condition of the receiving water body.

703 **§ 46.2-1601. Licensing of dealers of salvage vehicles; fees.**

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

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

721 C. Licenses issued under this section shall be deemed not to have expired if the renewal application
722 and required fees as set forth in subsection A are received by the Commissioner or postmarked not more
723 than 30 days after the expiration date of such license. Whenever the renewal application is received by
724 the Commissioner or postmarked not more than 30 days after the expiration date of such license, the
725 license fees shall be 150 percent of the fees provided for in subsection A.

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

729 **§ 62.1-44.2:1. Definitions; State Water Control Board.**

730 *As used in this title, "Board" means the State Water Control Board. However, when used in the*
731 *context of the issuance, reissuance, amendment, or modification of any certificate or permit or the*
732 *conduct of a permit action pursuant to this title, the term "Board" means the Department of*
733 *Environmental Quality.*

734 **§ 62.1-44.3. Definitions (For expiration date, see Acts 2016, cc. 68 and 758, as amended by Acts**
735 **2017, c. 345).**

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

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

746 "Board" means the State Water Control Board. *However, when used in the context of the issuance,*
747 *reissuance, amendment, or modification of any certificate or permit or the conduct of a permit action*
748 *pursuant to this title, the term "Board" means the Department of Environmental Quality.*

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

750 "Department" means the Department of Environmental Quality.

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

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

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

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

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

761 "Member" means a member of the Board.

762 "Normal agricultural activities" means those activities defined as an agricultural operation in
763 § 3.2-300 and any activity that is conducted as part of or in furtherance of such agricultural operation
764 but shall not include any activity for which a permit would have been required as of January 1, 1997,
765 under 33 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

766 "Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 and any
767 activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include
768 any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C.
769 § 1344 or any regulations promulgated pursuant thereto.

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

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

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

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

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

795 "Pretreatment requirements" means any requirements arising under the Board's pretreatment
796 regulations including the duty to allow or carry out inspections, entry, or monitoring activities; any rules,

797 regulations, or orders issued by the owner of a publicly owned treatment works; or any reporting
798 requirements imposed by the owner of a publicly owned treatment works or by the regulations of the
799 Board.

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

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

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

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

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

810 "Rule" means a rule adopted by the Board to regulate the procedure of the Board pursuant to
811 § 62.1-44.15 (7).

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

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

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

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

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

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

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

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

833 **§ 62.1-44.3. Definitions (For effective date, see Acts 2016, cc. 68 and 758, as amended by Acts**
834 **2017, c. 345).**

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

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

845 "Board" means the State Water Control Board. *However, when used in the context of the issuance,*
846 *reissuance, amendment, or modification of any certificate or permit or the conduct of a permit action*
847 *pursuant to this title, the term "Board" means the Department of Environmental Quality.*

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

849 "Department" means the Department of Environmental Quality.

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

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

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

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

858 "Land-disturbance approval" means an approval allowing a land-disturbing activity to commence

859 issued by (i) a Virginia Erosion and Stormwater Management Program authority after the requirements
 860 of § 62.1-44.15:34 have been met or (ii) a Virginia Erosion and Sediment Control Program authority
 861 after the requirements of § 62.1-44.15:55 have been met.

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

864 "Member" means a member of the Board.

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

868 1. Owned or operated by a federal entity, state, city, town, county, district, association, or other
 869 public body, created by or pursuant to state law, having jurisdiction over disposal of sewage, industrial
 870 wastes, stormwater, or other wastes, including a special district under state law such as a sewer district,
 871 flood control district, drainage district or similar entity, or a designated and approved management
 872 agency under § 208 of the federal Clean Water Act (33 U.S.C. § 1251 et seq.) that discharges to surface
 873 waters;

874 2. Designed or used for collecting or conveying stormwater;

875 3. Not a combined sewer; and

876 4. Not part of a publicly owned treatment works.

877 "Normal agricultural activities" means those activities defined as an agricultural operation in
 878 § 3.2-300 and any activity that is conducted as part of or in furtherance of such agricultural operation
 879 but shall not include any activity for which a permit would have been required as of January 1, 1997,
 880 under 33 U.S.C. § 1344 or any regulations promulgated pursuant thereto.

881 "Normal silvicultural activities" means any silvicultural activity as defined in § 10.1-1181.1 and any
 882 activity that is conducted as part of or in furtherance of such silvicultural activity but shall not include
 883 any activity for which a permit would have been required as of January 1, 1997, under 33 U.S.C.
 884 § 1344 or any regulations promulgated pursuant thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

948 **§ 62.1-44.8. Number, appointment and terms of members.**

949 The Board shall consist of seven members appointed *as follows: two members appointed by the*
 950 *Governor subject to confirmation by the General Assembly; two members appointed by the Senate*
 951 *Committee on Rules from a list recommended by the Senate Committee on Agriculture, Conservation*
 952 *and Natural Resources; and three members appointed by the Speaker of the House from a list*
 953 *recommended by the House Committee on Agriculture, Chesapeake and Natural Resources.* Members
 954 shall be appointed for the terms of four years each. Vacancies other than by expiration of a term shall
 955 be filled by the ~~Governor~~ *appointing authority* by appointment for the unexpired term.

956 **§ 62.1-242. Definitions.**

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

958 "Beneficial use" means both instream and offstream uses. Instream beneficial uses include but are not
 959 limited to protection of fish and wildlife habitat, maintenance of waste assimilation, recreation,
 960 navigation, and cultural and aesthetic values. Offstream beneficial uses include but are not limited to
 961 domestic (including public water supply), agricultural, electric power generation, commercial, and
 962 industrial uses. Domestic and other existing beneficial uses shall be considered the highest priority
 963 beneficial uses.

964 "Board" means the State Water Control Board. *However, when used in the context of the issuance,*
 965 *reissuance, amendment, or modification of any certificate or permit or the conduct of a permit action*
 966 *pursuant to this title, the term "Board" means the Department of Environmental Quality.*

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

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

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

975 "Surface water" means any water in the Commonwealth, except ground water, as defined in
 976 § 62.1-255.

977 **§ 62.1-255. Definitions.**

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

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

981 "Board" means the State Water Control Board. *However, when used in the context of the issuance,*

982 *reissuance, amendment, or modification of any certificate or permit or the conduct of a permit action*
983 *pursuant to this title, the term "Board" means the Department of Environmental Quality.*
984 "Department" means the Department of Environmental Quality.
985 "Eastern Shore Groundwater Management Area" means the ground water management area declared
986 by the Board encompassing the Counties of Accomack and Northampton.
987 "Ground water" means any water, except capillary moisture, beneath the land surface in the zone of
988 saturation or beneath the bed of any stream, lake, reservoir or other body of surface water wholly or
989 partially within the boundaries of the Commonwealth, whatever the subsurface geologic structure in
990 which such water stands, flows, percolates or otherwise occurs.
991 "Ground water withdrawal permit" means a certificate issued by the Board permitting the withdrawal
992 of a specified quantity of ground water in a ground water management area.
993 "Person" means any and all persons, including individuals, firms, partnerships, associations, public or
994 private institutions, municipalities or political subdivisions, governmental agencies, or private or public
995 corporations organized under the laws of the Commonwealth or any other state or country.
996 "Surficial aquifer" means the upper surface of a zone of saturation, where the body of ground water
997 is not confined by an overlying impermeable zone.
998 **§ 67-401. Permitting process for clean coal projects.**
999 To the extent authorized by federal law, the ~~State Air Pollution Control Board~~ *Department of*
1000 *Environmental Quality* shall implement permit processes that facilitate the construction of clean coal
1001 projects in the Commonwealth by, among such other actions as it deems appropriate, giving priority to
1002 processing permit applications for clean coal projects.

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