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SENATE BILL NO. 365

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact §§ 2.2-4006, 10.1-1322, 10.1-1402, 10.1-1402.1, and 62.1-44.15:6 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 62.1-44.15:6.1, relating to environmental permit fees.

Patron—Watkins

Referred to Committee on Agriculture, Conservation and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-4006, 10.1-1322, 10.1-1402, 10.1-1402.1, and 62.1-44.15:6 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 62.1-44.15:6.1 as follows:

§ 2.2-4006. Exemptions from requirements of this article.

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.

2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.

3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.

4. Regulations that are:

a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;

b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or

c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.

5. Preliminary program permit fees of the Department of Environmental Quality assessed pursuant to subsection C of § 10.1-1322.2.

6. Regulations of the Pesticide Control Board adopted pursuant to subsection B of § 3.1-249.51 or clause (v) or (vi) of subsection C of § 3.1-249.53 after having been considered at two or more Board meetings and one public hearing.

7. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants.

8. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.

9. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 and (c) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 2.2-4007, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in subsection F of § 2.2-4007, and (iv) conducts at least one public hearing on the proposed general permit.

10. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.

INTRODUCED

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- 59 11. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23-38.77.
60 12. Regulations of the Marine Resources Commission.
61 13. Regulations adopted by the Board of Housing and Community Development pursuant to
62 subsection D of § 36-99.
63 14. *Consumer Price Index adjustments to regulations adopted by (i) the Virginia Waste Management*
64 *Board establishing solid waste permit fees pursuant to § 10.1-1402.1, and (ii) the State Water Control*
65 *Board establishing water permit fees pursuant to §§ 62.1-44.15:6 and 62.1-44.15:6.1.*
66 B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it
67 will receive, consider and respond to petitions by any interested person at any time with respect to
68 reconsideration or revision. The effective date of regulations adopted under this subsection shall be in
69 accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall
70 become effective as provided in subsection B of § 2.2-4012.
71 C. A regulation for which an exemption is claimed under this section or § 2.2-4002, or § 2.2-4011
72 and that is placed before a board or commission for consideration shall be provided at least two days in
73 advance of the board or commission meeting to members of the public that request a copy of that
74 regulation. A copy of that regulation shall be made available to the public attending such meeting.
75 § 10.1-1322. Permits.
76 A. Pursuant to regulations adopted by the Board, permits may be issued, amended, revoked or
77 terminated and reissued by the Department and may be enforced under the provisions of this chapter in
78 the same manner as regulations and orders. Failure to comply with any condition of a permit shall be
79 considered a violation of this chapter and investigations and enforcement actions may be pursued in the
80 same manner as is done with regulations and orders of the Board under the provisions of this chapter.
81 B. The Board by regulation may prescribe and provide for the payment and collection of annual
82 permit program fees for air pollution sources. Annual permit program fees shall not be collected until (i)
83 the federal Environmental Protection Agency approves the Board's operating permit program established
84 pursuant to Title V of the federal Clean Air Act or (ii) the Governor determines that such fees are
85 needed earlier to maintain primacy over the program. The annual fees shall be based on the actual
86 emissions (as calculated or estimated) of each regulated pollutant, as defined in § 502 of the federal
87 Clean Air Act, in tons per year, not to exceed 4,000 tons per year of each pollutant for each source. The
88 annual permit program fees shall not exceed a base year amount of twenty-five dollars per ton using
89 1990 as the base year, and shall be adjusted annually by the Consumer Price Index as described in
90 § 502 of the federal Clean Air Act. Permit program fees for air pollution sources who receive state
91 operating permits in lieu of Title V operating permits shall be paid in the first year and thereafter shall
92 be paid biennially. The fees shall approximate the direct and indirect costs of administering and
93 enforcing the permit program, and of administering the small business stationary source technical and
94 environmental compliance assistance program as required by the federal Clean Air Act. *The Board may*
95 *also prescribe by regulation permit application fees for new major stationary sources. The permit*
96 *application fee amounts shall reflect the time required to review applications for permits from new air*
97 *pollution sources and may be adjusted periodically by the Consumer Price Index using 2004 as the base*
98 *year.* The fees shall be exempt from statewide indirect costs charged and collected by the Department of
99 Accounts.
100 C. When adopting regulations for permit program fees for air pollution sources, the Board shall take
101 into account the permit fees charged in neighboring states and the importance of not placing existing or
102 prospective industry in the Commonwealth at a competitive disadvantage.
103 D. On January 1, 1993, and December 1 of every even-numbered year thereafter, the Department
104 shall make an evaluation of the implementation of the permit fee program and provide this evaluation in
105 writing to the Senate Committee on Agriculture, Conservation and Natural Resources, the Senate
106 Committee on Finance, the House Committee on Appropriations, the House Committee on Conservation
107 and Natural Resources and the House Committee on Finance. This evaluation shall include a report on
108 the total fees collected, the amount of general funds allocated to the Department, the Department's use
109 of the fees and the general funds, the number of permit applications received, the number of permits
110 issued, the progress in eliminating permit backlogs, and the timeliness of permit processing.
111 E. To the extent allowed by federal law and regulations, priority for utilization of permit fees shall
112 be given to cover the costs of processing permit applications in order to more efficiently issue permits.
113 F. Fees collected pursuant to this section shall not supplant or reduce in any way the general fund
114 appropriation to the Department.
115 G. The permit fees shall apply to permit programs in existence on July 1, 1992, any additional
116 permit programs which may be required by the federal government and administered by the Board, or
117 any new permit program required by the Code of Virginia.
118 H. The permit program fee regulations promulgated pursuant to this section shall not become
119 effective until July 1, 1993.
120 I. [Expired.]

§ 10.1-1402. Powers and duties of the Board.

The Board shall carry out the purposes and provisions of this chapter and compatible provisions of federal acts and is authorized to:

1. Supervise and control waste management activities in the Commonwealth.
2. Consult, advise and coordinate with the Governor, the Secretary, the General Assembly, and other state and federal agencies for the purpose of implementing this chapter and the federal acts.
3. Provide technical assistance and advice concerning all aspects of waste management.
4. Develop and keep current state waste management plans and provide technical assistance, advice and other aid for the development and implementation of local and regional waste management plans.
5. Promote the development of resource conservation and resource recovery systems and provide technical assistance and advice on resource conservation, resource recovery and resource recovery systems.
6. Collect data necessary to conduct the state waste programs, including data on the identification of and amounts of waste generated, transported, stored, treated or disposed, and resource recovery.
7. Require any person who generates, collects, transports, stores or provides treatment or disposal of a hazardous waste to maintain records, manifests and reporting systems required pursuant to federal statute or regulation.
8. Designate, in accordance with criteria and listings identified under federal statute or regulation, classes, types or lists of waste that it deems to be hazardous.
9. Consult and coordinate with the heads of appropriate state and federal agencies, independent regulatory agencies and other governmental instrumentalities for the purpose of achieving maximum effectiveness and enforcement of this chapter while imposing the least burden of duplicative requirements on those persons subject to the provisions of this chapter.
10. Apply for federal funds and transmit such funds to appropriate persons.
11. Promulgate and enforce regulations, and provide for reasonable variances and exemptions necessary to carry out its powers and duties and the intent of this chapter and the federal acts, 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.
12. Subject to the approval of the Governor, acquire by purchase, exercise of the right of eminent domain as provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, grant, gift, devise or otherwise, the fee simple title to any lands, selected in the discretion of the Board as constituting necessary and appropriate sites to be used for the management of hazardous waste as defined in this chapter, including lands adjacent to the site as the Board may deem necessary or suitable for restricted areas. In all instances the Board shall dedicate lands so acquired in perpetuity to such purposes. In its selection of a site pursuant to this subdivision, the Board shall consider the appropriateness of any state-owned property for a disposal site in accordance with the criteria for selection of a hazardous waste management site.
13. Assume responsibility for the perpetual custody and maintenance of any hazardous waste management facilities.
14. Collect, from any person operating or using a hazardous waste management facility, fees sufficient to finance such perpetual custody and maintenance due to that facility as may be necessary. All fees received by the Board pursuant to this subdivision shall be used exclusively to satisfy the responsibilities assumed by the Board for the perpetual custody and maintenance of hazardous waste management facilities.
15. Collect, from any person operating or proposing to operate a hazardous waste treatment, storage or disposal facility, *large quantity generators of hazardous waste*, or any person transporting hazardous waste, ~~permit application~~ fees sufficient to defray only costs related to the issuance of permits *and assuring compliance* as required in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to implement this subdivision. All fees received by the Board pursuant to this subdivision shall be used exclusively for the hazardous waste management program set forth herein.
16. Collect, from any person operating or proposing to operate a sanitary landfill or other facility for the disposal, treatment or storage of nonhazardous solid waste, ~~permit application~~ fees sufficient to defray only costs related to the issuance of permits *for the review and assessment of ground water monitoring, and for inspections necessary to assure compliance* as required in this chapter in accordance with Board regulations, but such fees shall not exceed costs necessary to ~~issue such permits implement the provisions of this subdivision~~. All such fees received by the Board shall be used exclusively for the solid waste management program set forth herein. The Board shall establish a schedule of fees by regulation as provided in §§ 10.1-1402.1, 10.1-1402.2 and 10.1-1402.3.
17. Issue, deny, amend and revoke certification of site suitability for hazardous waste facilities in

182 accordance with this chapter.

183 18. Make separate orders and regulations it deems necessary to meet any emergency to protect public
184 health, natural resources and the environment from the release or imminent threat of release of waste.

185 19. Take actions to contain or clean up sites or to issue orders to require cleanup of sites where solid
186 or hazardous waste, or other substances within the jurisdiction of the Board, have been improperly
187 managed and to institute legal proceedings to recover the costs of the containment or clean-up activities
188 from the responsible parties.

189 20. Collect, hold, manage and disburse funds received for violations of solid and hazardous waste
190 laws and regulations or court orders pertaining thereto pursuant to subdivision 19 of this section for the
191 purpose of responding to solid or hazardous waste incidents and clean-up of sites that have been
192 improperly managed, including sites eligible for a joint federal and state remedial project under the
193 federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, Public Law
194 96-510, as amended by the Superfund Amendments and Reauthorization Act of 1986, Public Law
195 99-499, and for investigations to identify parties responsible for such mismanagement.

196 21. Abate hazards and nuisances dangerous to public health, safety or the environment, both
197 emergency and otherwise, created by the improper disposal, treatment, storage, transportation or
198 management of substances within the jurisdiction of the Board.

199 22. Notwithstanding any other provision of law to the contrary, regulate the management of mixed
200 radioactive waste.

201 § 10.1-1402.1. (Effective July 1, 2004) Permit fee regulations.

202 Regulations promulgated by the Board which establish a permit fee assessment and collection system
203 pursuant to subdivision 16 of § 10.1-1402 shall be governed by the following:

204 1. Permit fees charged an applicant shall reflect the average time and complexity of processing a
205 permit in each of the various categories of permits and permit actions. *No fees shall be charged for*
206 *minor modifications or minor amendments to such permits. Annual fees shall reflect the time and*
207 *complexity of inspecting and monitoring the different categories of facilities.*

208 2. When promulgating regulations establishing permit fees, the Board shall take into account the
209 permit fees charged in neighboring states and the importance of not placing existing or prospective
210 industries in the Commonwealth at a competitive disadvantage.

211 3. On January 1, 1993, and January 1 of every even-numbered year thereafter, the Board shall
212 evaluate the implementation of the permit fee program and provide this evaluation in writing to the
213 Senate Committees on Agriculture, Conservation and Natural Resources, and Finance; and the House
214 Committees on Appropriations, Agriculture, Chesapeake and Natural Resources, and Finance. This
215 evaluation shall include a report on the total fees collected, the amount of general funds allocated to the
216 Department, the Department's use of the fees and the general funds, the number of permit applications
217 received, the number of permits issued, the progress in eliminating permit backlogs, and the timeliness
218 of permit processing.

219 4. Fees collected pursuant to subdivision 16 of § 10.1-1402 shall not supplant or reduce in any way
220 the general fund appropriation to the Board.

221 5. These permit fees shall be collected in order to recover a portion of the agency's costs associated
222 with (i) the processing of an application to issue, reissue, amend or modify permits, which the Board
223 has authority to issue for the purpose of more efficiently and expeditiously processing permits, (ii) *the*
224 *review and assessment of ground water monitoring, and (iii) inspections necessary to assure compliance*
225 *with the permits. If the report completed pursuant to this section demonstrates that permit fees collected*
226 *under the authority of § 10.1-1402, in combination with any general funds or federal funds provided,*
227 *exceed the program's needs by 20 percent, and that this excess revenue will continue unless the fee*
228 *structure is changed, the Board shall initiate regulatory action to adjust the fee schedule.* The fees shall
229 be exempt from statewide indirect costs charged and collected by the Department of Accounts.

230 *The Board shall establish criteria by regulation to provide for reductions in the annual fee amount*
231 *assessed for facilities based upon acceptance into the Department's programs for environmental*
232 *excellence.*

233 6. *The regulation shall include provisions allowing the director to waive or reduce any volume-based*
234 *fees assessed on solid waste facilities during a state of emergency or for waste resulting from emergency*
235 *response actions.*

236 7. *Amendments to the fee schedule regulations that are based on changes to the Consumer Price*
237 *Index shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. The Board shall*
238 *provide notice and an opportunity for public comment prior to the Consumer Price Index adjustment.*

239 § 62.1-44.15:6. (Effective July 1, 2004) Virginia Pollutant Discharge Elimination System and Virginia
240 Pollutant Abatement permit fee regulations.

241 A. The Board shall promulgate regulations establishing a fee assessment and collection system to
242 recover a portion of the State Water Control Board's, ~~the Department of Game and Inland Fisheries' and~~
243 ~~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 *and assuring compliance with such 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 which imposes permit fees.

B. Permit fees charged an applicant 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 sponsored dredging projects, and 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	\$ 8,000
Minor	\$ 3,500
General	\$ 400 500
2. Virginia Pollution Abatement	
Industrial/Wastewater	\$ 5,000
Industrial/Sludge	\$ 2,500
Municipal/Wastewater	\$ 5,000
Municipal/Sludge	\$ 2,500
Other	\$ 250
3. 401 Certification/Virginia Water Protection	
 Individual	\$ 3,000
 General	\$ 400
 Waiver	\$ 400
4. Ground Water Withdrawal	\$ 2,000
5. Surface Water Withdrawal	\$ 4,000

These maximum amounts on permit fees shall be adjusted annually based upon changes in the Consumer Price Index using 2004 as the base year. Amendments to the fee schedule regulations that are based on changes to the Consumer Price Index shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. The Board shall provide notice and an opportunity for public comment prior to amendment of any fee schedule. When modifications in these permits or certificates have been initiated by the Board, the fee for the modified permit or certificate shall not exceed seventy-five percent of the maximum amount established by this subsection. ~~Payments for the costs of processing applications by the Department of Game and Inland Fisheries and the Department of Conservation and Recreation shall be limited to the lesser of twenty-five percent of the fees prescribed by regulation or \$100 per permit or certificate and shall further be limited to those permits or certificates these agencies are required to review by the Code of Virginia.~~

B1. Annual fees charged the permit holder shall reflect the average time and complexity of monitoring compliance with permit conditions in each of the various categories of permits, but in no instance shall the fees exceed the following maximum amounts:

Type of Permit/Certificate Category	Maximum Amount
1. Virginia Pollutant Discharge Elimination System	
Major	\$4,500
Minor	\$2,000
2. Virginia Pollution Abatement	\$900

No annual fee shall be assessed for facilities operating under a general permit. Additional fees, not to exceed \$1,000 per year, shall be assessed for each of the following activities: facilities in the toxics

management program, facilities that have more than five process wastewater discharge outfalls, and wastewater treatment plants that receive pollutants from industrial users for final treatment and discharge as part of a pretreatment program. These maximum amounts for permit fees shall be adjusted annually based upon changes in the Consumer Price Index using 2004 as the base year. Amendments to the fee schedule regulation that are based on changes to the Consumer Price Index shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. The Board shall provide notice and an opportunity for public comment prior to the amendment of any fee schedule.

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 ~~Conservation~~ 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 in neighboring states.

In addition, the 1998 report shall include an analysis and estimate of the annual costs to permit holders and permit applicants if the direct and indirect costs of administering the water permit program were to be apportioned in a manner that would require the permit holders and applicants to pay fifty, seventy-five, and one hundred percent of the program's total cost through annual permit fees. The Department shall propose how the following factors could be used to adjust individual permit fees: (i) the average time and complexity of processing a permit in each of the various categories of permits and permit actions, (ii) the permit holder's compliance history, (iii) whether the permit holder has implemented pollution prevention plans, (iv) whether the applicant or permit holder has used innovative technology and (v) the financial hardship of the applicant or permit holder.

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 which 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 which that have established a record of compliance with the terms and requirements of their permits. The Board shall establish criteria to provide reductions to annual fee amounts based upon acceptance into the Department's programs for environmental excellence.

§ 62.1-44.15:6.1. Other permit fee regulations.

A. The Board shall promulgate regulations establishing a permit application fee assessment and collection system to recover a portion of the Board's direct and indirect costs associated with the processing of an application to issue, reissue, amend or modify any Virginia Water Protection Permit, ground water withdrawal or surface water withdrawal permit or certificate, and for assuring compliance with such permits, in accordance with this chapter and Chapters 24 (§ 62.1-242 et seq.) and 25 (§ 62.1-254 et seq.) of this title, for the purpose of more efficiently and expeditiously processing permits and assuring compliance with such 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.

B. Fee amounts 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 U.S. Army Corps of Engineers-sponsored dredging projects, and 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
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1. Virginia Water Protection

Individual-Wetlands \$2,200 per acre of impact

Individual-Minimum Instream Flow \$24,000

Individual-Reservoir \$35,000

General \$1,200

2. Ground Water Withdrawal \$6,000

3. Surface Water Withdrawal \$12,000

These maximum amounts on permit fees shall be adjusted annually based upon changes in the Consumer Price Index using 2004 as the base year. Amendments to the fee schedule regulations that are based on changes to the Consumer Price Index shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. The Board shall provide notice and an opportunity for public comment prior to amendment of any fee schedule. When modifications in these permits or certificates have been initiated by the Board, the fee for the modified permit or certificate shall not exceed 75 percent of the maximum amount established by this subsection.

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 fees charged to the permit holders and applicants in neighboring states.

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.

2. That the regulations adopted by the Virginia Waste Management Board and the State Water Control Board to initially implement the provisions of this act shall be exempt from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia and shall become effective upon filing with the Registrar of Regulations. Thereafter, any amendments to the fee schedules established by this act, other than for Consumer Price Index adjustments, shall not be exempted from Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2.