



**Virginia
Regulatory
Town Hall**

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	State Water Control Board
VAC Chapter Number:	9 VAC 25-20
Regulation Title:	Fees for Permits and Certificates
Action Title:	Amendment 1
Date:	April 22, 2002

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose*

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

Section 62.1-44.15:6 of the Code of Virginia requires the promulgation of regulations establishing a fee assessment and collection system to recover a portion of the State Water Control Board's, Department of Game and Inland Fisheries', and the Department of Conservation and Recreation's direct and indirect costs associated with the processing of an application to issue, reissue, or modify any permit or certificate which the State Water Control Board has the authority to issue from the applicant for such permit or certificate. These regulations establish the required fee assessment and collection system. The General Assembly of Virginia amended and enacted revisions to §62.1-44.15:6 of the Code of Virginia increasing the maximum allowable amounts for processing each type of permit/certificate category. The proposed amendment will revise the fee schedules in 9 VAC 25-20 to reflect the revisions in §62.1-44.15:6 of the Code of Virginia.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The basis for the proposed regulatory amendment is the Act of Assembly amending § 62.1-44.15:6 of the Code of Virginia. The Act of Assembly requires that the State Water Control Board promulgate regulations to carry out the provisions of the act. “That the Virginia Waste Management Board and the State Water Control Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.” (Cite Acts of Assembly, S 592, Item 2). Full text of the Act of Assembly is available at <http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+SB592ER>.

Need*

Please detail the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

Fees for permits and certificates are authorized to recover, up to the maximums specified in statute, the direct and indirect costs associated with application review and permit or certificate issuance. The required January 2002 Permit Fee Program Evaluation Report to the General Assembly indicates that in Fiscal Year 2001 actual water permit program costs exceeded \$10.6 million, whereas permit fee revenues were only slightly above \$1 million.

One issue that will need to be addressed as the regulation is developed is that the Acts of Amendment include a clause that the provisions of the act shall expire on July 1, 2004.

Substance*

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed.

The regulation would be revised to reflect the changes in maximum amounts as specified in §62.1-44.15:6 of the Code of Virginia. In addition, changes may be considered based on public comment in response to this NOIRA.

Alternatives*

Please describe the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the need. Also describe, to the extent known, the specific alternatives to the proposal that have been considered and will be considered to meet the need, and the reasoning by which the agency has rejected any of the alternatives considered.

The fee structure recovers a portion of the Agencies’ costs associated with the permit programs. The Board has not identified alternative regulations that would accomplish the mandate.

Because the legislation specified only the maximum allowable fees, alternatives that the Agency will consider in developing the regulation will focus on the specific amount that existing fees should be increased.

Public Participation*

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also indicate whether a public meeting is to be held to receive comments on this notice. Indicate that 1) the agency is not holding a meeting because the agency has authorized proceeding without holding a meeting or 2) the agency is holding a meeting. If a public meeting is to be held, indicate where information on the public meeting (i.e., date, time and place) may be found.

The Board is seeking comments on the intended regulatory action, including ideas to assist in the development of a proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. A public meeting will be held and notice of the meeting can be found in the Calendar of Events section of the Virginia Register of Regulations.

Participatory Approach*

Please indicate the extent to which an ad hoc advisory group will be used in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

The Board is using the participatory approach to develop the proposed amendments to the regulation. Anyone interested in assisting the Board during development of a proposal should notify the contact person.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no direct impact on the institution of the family and family stability. However, owners or operators of affected facilities may attempt to recoup increased cost by increasing connection and user fees, or the costs of goods and/or services. Should this occur, disposable family income may be decreased for those families affected by the increases.