



Virginia
Regulatory
Town Hall

Emergency Regulation
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

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

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 maximum allowable fees in 9 VAC 25-20-10 et seq. to reflect the revisions in §62.1-44.15:6 of the Code of Virginia. Emergency regulation is necessary because the Act of Assembly requires the State Water Control Board to promulgate regulations to implement the provisions of the act to be effective within 280 days of its enactment. The regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

Section 62.1-44.15(10) of the Code of Virginia provides the State Water Control Board the authority to adopt such regulations as it deems necessary to enforce the general water quality management program of the Board.

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>.

The Office of the Attorney General has certified that the State Water Control Board has the statutory authority to promulgate this emergency regulation and that it comports with applicable state and/or federal law.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

Under this emergency regulation, the existing regulation would be revised to reflect the changes in maximum amounts as specified in §62.1-44.15:6.B of the Code of Virginia. The fees specified in Sections 9 VAC 25-20-110, 9 VAC 25-20-120, and 9 VAC 25-20-130 would be multiplied by a factor of three, or increased to the maximum amounts specified in §62.1-44.15:6.B of the Code

of Virginia, whichever is lower. Additionally, the Virginia Water Protection permit waiver fee would be eliminated and the fee for registration under a VWP General permit would be staggered for projects impacting less than one half acre and projects impacting one half acre or more.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

Because a number of alternatives were considered during the development of the act, the emergency regulation will address only the increase of the permit fees.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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 the 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.