

## **HABITAT MANAGEMENT DIVISION EVALUATION**

**PUBLIC HEARING:** Proposed General Permit for “Utility Line Encroachments Beneath or Over State-Owned Subaqueous Beds” Chapter 4 VAC 20-1410-10 Et Seq. This general permit is intended to increase efficiency in the Habitat Management review and approval of proposed projects involving the installation of utility lines that do not require instream construction activities upon state-owned subaqueous beds.

On June 30, 2022, Governor Glen Youngkin issued Executive Order 19 directing executive branch agencies to reduce regulatory burden on the public by working with the Office of Regulatory Management. Per this directive, Habitat Management staff developed this proposed regulation, in accordance with §28.2-103 of the Code of Virginia which grants the Commission the authority to promulgate regulations necessary to carry out provisions of this title. This regulation, if approved, would greatly reduce staff processing and permitting times for proposed utility crossings, and allow for applicant cost savings and quicker public access to utilities.

Experience has shown that the installation of aerial and bored utility lines will not adversely impact natural resources under the jurisdiction of the Virginia Marine Resources Commission (VMRC). In addition, these types of projects normally receive a subaqueous permit from the Commission following the standard public interest review with no protests.

Currently, anytime a utility line crossing encroaches either above or below state-owned subaqueous bottomlands, a VMRC subaqueous permit is required for that portion of the project, under the public trust doctrine. These projects typically have permit issuance times of up to 60 to 90 days.

Through the use of this proposed general permit, the permitting time will be reduced to less than 21 days, representing a potential savings of up to 10 weeks. In 2022, Habitat Management received 188 applications that would have qualified under this general permit. Using last year as an example, the time reduction to permit issuance could have saved the Commission approximately \$25,000 in salaried employee time and saved utility companies approximately \$50 million in logistical and construction costs, as calculated using estimated staff salaries and data from utility companies of costs due to project delays. Looking forward, the numbers of these types of applications are expected to increase due to various initiatives proposing to increase rural access to broadband internet, and necessary maintenance cycles for existing power, water, natural gas, and sewer infrastructure.

To be a more efficient regulatory agency, and to accommodate Governor Youngkin’s Executive Order #19, staff is proposing this general permit as a way to expedite projects where there are no direct impacts on state-owned submerged bottomland resources under VMRC regulatory authority. This new general permit will allow time and cost savings not only for this agency but also for the general public and utility companies. Accordingly, staff recommends approval of this regulation as proposed.