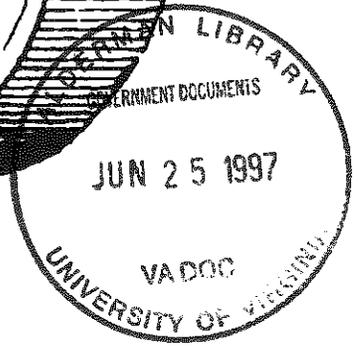
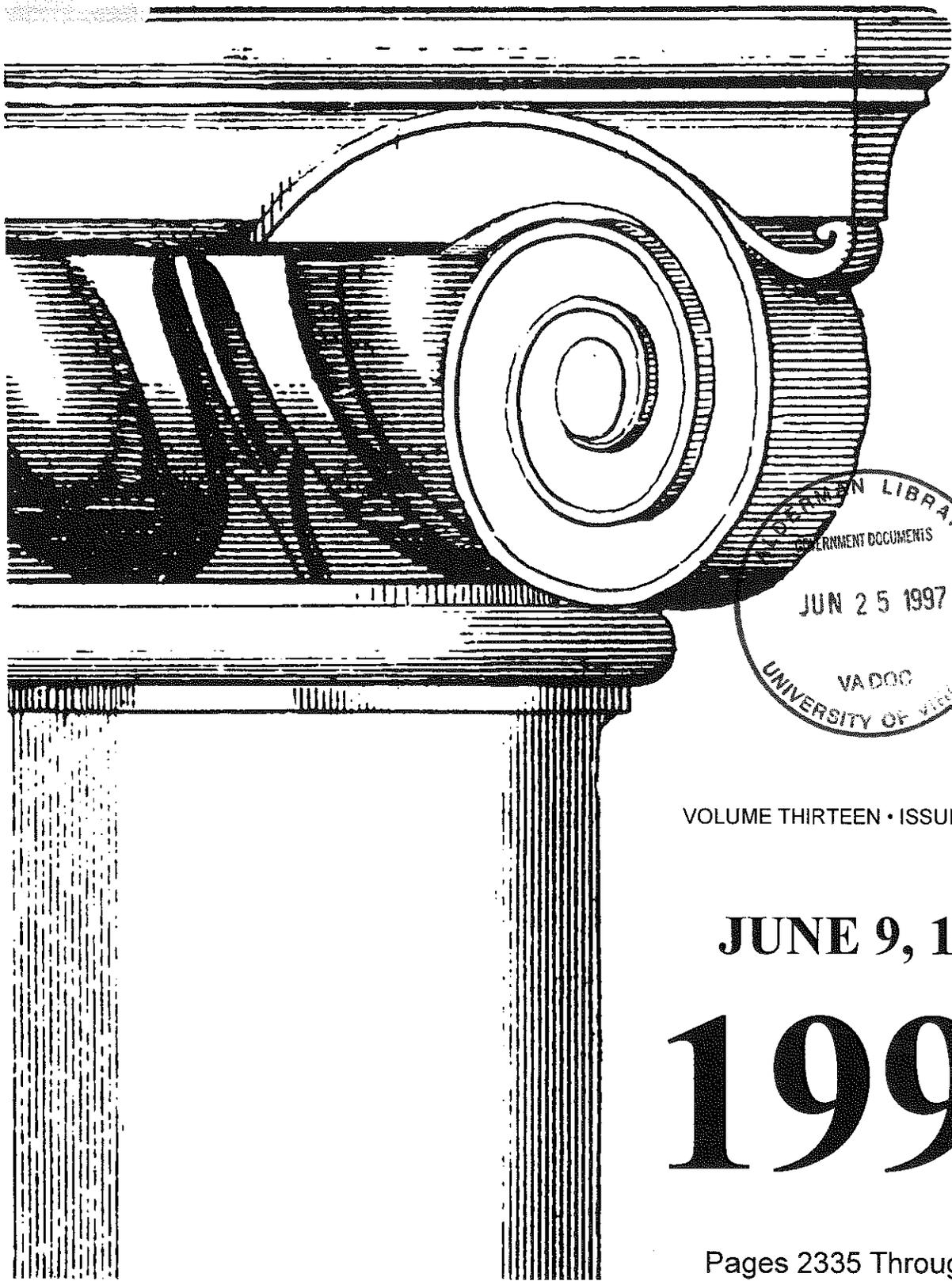


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THE VIRGINIA REGISTER

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JUNE 9, 1997

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative. THE VIRGINIA REGISTER has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in THE VIRGINIA REGISTER OF REGULATIONS. In addition, THE VIRGINIA REGISTER is a source of other information about state government, including all emergency regulations and executive orders issued by the Governor, the Virginia Tax Bulletin issued periodically by the Department of Taxation, and notices of public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative committee, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate standing committees and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day extension period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event

the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period.

Proposed regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

EMERGENCY REGULATIONS

If an agency demonstrates that (i) there is an immediate threat to the public's health or safety; or (ii) Virginia statutory law, the appropriation act, federal law, or federal regulation requires a regulation to take effect no later than (a) 280 days from the enactment in the case of Virginia or federal law or the appropriation act, or (b) 280 days from the effective date of a federal regulation, it then requests the Governor's approval to adopt an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to addressing specifically defined situations and may not exceed 12 months in duration. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) deliver the Notice of Intended Regulatory Action to the Registrar in time to be published within 60 days of the effective date of the emergency regulation; and (ii) deliver the proposed regulation to the Registrar in time to be published within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 9-6.14:7.1 et seq.) of Chapter 1.1:1 of the Code of Virginia be examined carefully.

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Staff of the Virginia Register: E. M. Miller, Jr., Acting Registrar of Regulations; Jane D. Chaffin, Deputy Registrar of Regulations.

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Symbol Key

† Indicates entries since last publication of the *Virginia Register*

STATE AIR POLLUTION CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-30-10 et seq. and 9 VAC 5-70-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. A97)**. The purpose of the proposed action is to repeal regulatory provisions regarding total suspended particulate (TSP) ambient air quality standards (9 VAC 5-30-20) and significant harm levels for TSP for air pollution episodes (9 VAC 5-70-40) that have been determined to be no longer required by federal mandate pursuant to the review of existing regulations mandated by Executive Order 15(94).

Public Meeting: A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, at 9 a.m. on June 11, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m., on June 12, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The contemplated regulations are not essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

The agency performed an analysis to determine if statutory mandates justify continuation of the regulations. The analysis revealed that statutory justification does exist for the regulations with the one exception noted below. The

regulations were adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulations, with the one exception noted below, are consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulations have changed to a degree that would justify a change to the basic requirements of the regulation, as explained below.

The one provision of the regulations that exceeds the specific minimum requirements of a legally binding state or federal mandate has been identified. In addition to establishing primary and secondary standards for the criteria pollutants specified in federal law, as well as significant harm levels for air pollution episodes, the state regulations also establish standards and significant harm levels for TSP. At the time of the state regulations' initial promulgation in 1972, federal regulation (40 CFR Part 50) mandated standards for this pollutant. In 1987, however, federal standards for particulate matter (PM₁₀) were promulgated and the standards for TSP rescinded, the former superseding the latter. Virginia has not yet followed the lead of the federal government in this regard, retaining both sets of standards in regulations. Therefore, the state regulations now exceed the federal mandate in this one provision.

Executive Order 15(94) states, "Unless otherwise mandated by statute, the only regulations that should remain in effect are those that are essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function." The new PM₁₀ standards are more protective of public health and equally protective of public welfare than the old TSP standards. Rescission of the state TSP standards would contribute to the efficient and economical performance of government because it would eliminate outdated, duplicative, and insufficiently protective regulatory provisions.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Amend the regulations to satisfy the provisions of the law and associated regulations and policies. This option is being selected because it meets the stated purpose of the regulation amendments: to achieve consistency with federal requirements by repealing an outdated standard.

Notices of Intended Regulatory Action

2. Make alternative regulatory changes to those required by the provisions of the law and associated regulations and policies. This option is not being selected because it will not ensure consistency with federal requirements.

3. Take no action to amend the regulations and continue to enforce an outdated standard. This option is not being selected because it will ensure the continuance of an outdated standard.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The regulations (9 VAC 5 Chapters 30 and 70) are mandated by federal law or regulation. However, certain provisions in these regulations related to TSP are not mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Sections 109 (a) and (b) of the Clean Air Act require EPA to prescribe national primary air quality standards (to protect public health) and national secondary air quality standards (to protect public welfare) for each air pollutant for which air quality criteria were issued before the enactment of the 1970 Clean Air Act. The primary and secondary air quality criteria are authorized for promulgation under § 108 of the Clean Air Act. The criteria for each pollutant shall include, to the extent practicable, information on the following: (i) variables which may adversely affect the impact of an air pollutant on public health or welfare; (ii) pollutants which may interact with other pollutants to produce an adverse effect on public health or welfare; and (iii) any known or anticipated adverse effects on public health or welfare.

Section 302 (h) defines effects on public welfare as including, but not limited to, effects on soils, water, vegetation, man-made materials, animals, weather, visibility. Also included are damage to and deterioration of property, hazards to transportation, and adverse effects on economic values, personal comfort, and well-being.

40 CFR Part 50 specifies the national primary and secondary ambient air quality standards for the following criteria air pollutants: sulfur dioxide, particulate matter (PM₁₀), carbon monoxide, ozone, nitrogen dioxide, and lead. In addition, since § 302 (g) of the Clean Air Act specifies that the term "air pollutant" includes precursors to the formation of any air pollutant, volatile organic compounds (hydrocarbons) are generically classed as a criteria air pollutant because of their function as a precursor in ozone formation.

Appendices A through J to 40 CFR Part 50 specify reference methods for measuring the following criteria air pollutants in the atmosphere or in the ambient air: sulfur dioxide, suspended particulate matter, carbon monoxide, ozone, hydrocarbons corrected for methane, nitrogen dioxide, lead in suspended particulate matter, and particulate matter (PM₁₀).

Appendices H and K to 40 CFR Part 50 interpret the National Ambient Air Quality Standards for two criteria air pollutants: ozone and particulate matter.

Subparts A through D of 40 CFR Part 53 specify ambient air monitoring reference and equivalent methods, specifically procedures for testing performance characteristics of automated methods for sulfur dioxide, carbon monoxide, ozone, particulate matter (PM₁₀), and nitrogen dioxide; and procedures for determining comparability between candidate methods and reference methods.

40 CFR Part 58 specifies procedures for ambient air quality surveillance, specifically monitoring criteria; state and local air monitoring stations (SLAMS); national air monitoring stations (NAMS); photochemical assessment monitoring stations (PAMS); air quality index reporting; and federal monitoring.

In addition to establishing primary and secondary standards for the criteria pollutants specified in federal law, 9 VAC 5-30-20 of the state regulation also establishes standards for TSP. At the time of the state regulation's initial promulgation in 1972, federal regulation (40 CFR Part 50) mandated standards for this pollutant. In 1987, however, federal standards for particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (PM₁₀) were promulgated and the standards for TSP rescinded. Virginia's regulations still contain provisions related to TSP in regulations regarding ambient air quality standards (9 VAC 5-30-20) and significant harm levels for TSP for air pollution episodes (9 VAC 5-70-40). Therefore, the state regulation now exceeds the federal mandate in this one provision.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on June 12, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-393; Filed April 15, 1997, 8:27 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. B97)**. The purpose of the proposed action is to repeal regulatory provisions regarding remissions standards for perchloroethylene dry cleaning systems (Article 38, 9 VAC 5-40-5350 et seq.) that have been determined to be no longer required by federal mandate pursuant to the review of existing regulations mandated by Executive Order 15(94).

Public Meeting: A public meeting will be held by the department in the Training Room, Department of Environmental Quality, 629 East Main Street, Richmond,

Notices of Intended Regulatory Action

Virginia, at 11 a.m. on July 10, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m. July 11, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The contemplated regulation is not essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Executive Order 15(94) states, "Unless otherwise mandated by statute, the only regulations that should remain in effect are those that are essential to protect the health, safety and welfare of citizens or for the efficient and economical performance of an important governmental function."

The agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification no longer exists for the regulation. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the federal Clean Air Act to provide a legally enforceable state implementation plan for the control of criteria pollutants. These statutes still remain in force, but one key provision that initiated adoption of the regulation no longer exists.

Analysis reveals that the regulation is not consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulation have changed to a degree that would justify a change to the basic requirements of the regulation, as explained below.

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. The 1977 amendments to the Clean Air Act authorized the establishment of nonattainment

areas and prescribed specific requirements for those areas. These amendments also required EPA to promulgate minimum RACT requirements for sources of volatile organic compounds. These requirements are summarized in Appendix D to EPA's proposed policy statement. See 52 FR 45105 (November 24, 1987). The 1990 amendments to the Clean Air Act required states to adopt regulations incorporating EPA's minimum RACT requirements for sources of volatile organic compounds. Therefore, the legally binding federal mandate for this regulation derives from the minimum RACT requirements published pursuant to the 1977 amendments combined with the directive in the 1990 amendments for states to adopt regulations which include these minimum RACT requirements in order to control volatile organic compounds, which are emitted by the sources subject to this regulation.

In 1992, however, EPA proposed to exclude perchloroethylene from those compounds defined as volatile organic compounds. This proposal was based on the argument that the negligible photochemical reactivity of perchloroethylene does not contribute to tropospheric ozone formation. In 1993, EPA issued guidance advising states to discontinue the inclusion of perchloroethylene in the VOC emissions inventory, saying that VOC reduction credits would no longer be allowed for this pollutant. Now that EPA's proposal to revoke the status of perchloroethylene as a VOC has become final, the state regulation no longer serves its original purpose and exceeds the federal mandate by its very existence. See 61 FR 4588 (February 7, 1996).

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the third alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets but does not exceed the specific minimum requirements of all legally binding state or federal mandates. The alternatives being considered by the department are discussed below.

1. Take no action to amend the regulation. This option is not being selected because of the reasons specified below in 3.
2. Make alternative regulatory changes to those required by the provisions of the legally binding state or federal mandates. This option is not being selected because it will not ensure consistency with federal requirements.
3. Amend the regulation to satisfy the provisions of the legally binding state or federal mandates. This option is being selected because EPA has provisionally ceased to regard perchloroethylene as a VOC. Thus, the regulation no longer serves its original purpose of contributing to the attainment and maintenance of the National Ambient Air Quality Standards.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Notices of Intended Regulatory Action

Applicable Statutory Requirements: The regulation was originally mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
2. Establish schedules for compliance;
3. Prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and
4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

40 CFR Part 51 sets out the general requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;

2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;

3. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;

4. Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;

5. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and

2. The plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Part D of the Clean Air Act specifies state implementation plan requirements for nonattainment areas, with Subpart 1 covering nonattainment areas in general and Subpart 2 covering additional provisions for ozone nonattainment areas.

Section 171 defines "reasonable further progress," "nonattainment area," "lowest achievable emission rate," and "modification."

Section 172(a) authorizes EPA to classify nonattainment areas for the purpose of assigning attainment dates. Section 172(b) authorizes EPA to establish schedules for the submission of plans designed to achieve attainment by the specified dates. Section 172(c) specifies the provisions to be included in each attainment plan, as follows:

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1. The implementation of all reasonably available control measures as expeditiously as practicable and shall provide for the attainment of the national ambient air quality standards;
2. The requirement of reasonable further progress;
3. A comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutants in the nonattainment area;
4. An identification and quantification of allowable emissions from the construction and modification of new and modified major stationary sources in the nonattainment area;
5. The requirement for permits for the construction and operations of new and modified major stationary sources in the nonattainment area;
6. The inclusion of enforceable emission limitations and such other control measures (including economic incentives such as fees, marketable permits, and auctions of emission rights) as well as schedules for compliance;
7. If applicable, the proposal of equivalent modeling, emission inventory, or planning procedures; and
8. The inclusion of specific contingency measures to be undertaken if the nonattainment area fails to make reasonable further progress or to attain the national ambient air quality standards by the attainment date.

Section 172(d) requires that attainment plans be revised if EPA finds inadequacies. Section 172(e) authorizes the issuance of requirements for nonattainment areas in the event of a relaxation of any national ambient air quality standard. Such requirements shall provide for controls which are not less stringent than the controls applicable to these same areas before such relaxation.

Under Part D, Subpart 2, § 182(a)(2)(A) requires that the existing regulatory program requiring reasonably available control technology (RACT) for stationary sources of volatile organic compounds (VOCs) in marginal nonattainment areas be corrected by May 15, 1991, to meet the minimum requirements in existence prior to the enactment of the 1990 amendments. RACT is the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. EPA has published control technology guidelines (CTGs) for various types of sources, thereby defining the minimum acceptable control measure or RACT for a particular source type.

Section 182(b) requires stationary sources in moderate nonattainment areas to comply with the requirements for sources in marginal nonattainment areas. The additional, more comprehensive control measures in § 182(b)(2)(A) require that each category of VOC sources employ RACT if the source is covered by a CTG document issued between enactment of the 1990 amendments and the attainment date

for the nonattainment area. Section 182(b)(2)(B) requires that existing stationary sources emitting VOCs for which a CTG existed prior to adoption of the 1990 amendments also employ RACT.

Section 182(c) requires stationary sources in serious nonattainment areas to comply with the requirements for sources in both marginal and moderate nonattainment areas.

EPA has issued detailed guidance that sets out its preliminary views on the implementation of the air quality planning requirements applicable to nonattainment areas. This guidance is titled the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (or "General Preamble"). See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The General Preamble has been supplemented with further guidance on Title I requirements. See 57 FR 31477 (July 16, 1992) (announcing the availability of draft guidance for lead nonattainment areas and serious PM₁₀ nonattainment areas); 57 FR 55621 (Nov. 25, 1992) (guidance on NO_x RACT requirements in ozone nonattainment areas). For this subject, the guidance provides little more than a summary and reiteration of the provisions of the Act.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on July 11, 1997, to Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Mary E. Major, Environmental Program Manager, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4423, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-533; Filed May 21, 1997, 10:56 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40-10 et seq. and 9 VAC 5-50-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. G97)**. The regulation amendments are being proposed to render the state toxics program consistent with the federal Clean Air Act, according to a determination made pursuant to the review of existing regulations mandated by Executive Order 15(94).

Public Meeting: A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Thursday, July 10, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

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Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on Friday, July 11, 1997, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The regulations are essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Analysis reveals that the regulations are consistent with applicable state, statutory provisions, and judicial decisions. However, factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulations have changed to a degree that would justify a change to the basic requirements of the regulations.

Rules 4-3 and 5-3 were promulgated in 1985 to protect public health by setting significant ambient air concentration guidelines for all existing facilities emitting air toxic substances. At the time, the Clean Air Act authorized EPA to promulgate health-based emission standards for hazardous air pollutants (HAPs). However, due to the long-term nature of the decision-making process for this federal program, only a limited number of National Emissions Standards for Hazardous Air Pollutants (NESHAPs) had been promulgated. The process to establish a NESHAP was lengthy, similar to that used to determine a National Ambient Air Quality Standard for a criteria pollutant such as sulfur dioxide. The process involved a determination of a critical level that triggered significant health effects, followed by a determination of those industry categories that contributed the highest emission level of the HAP under review. Concurrent with the slow progression of federal assessment of HAPs, a series of significant chemical accidents were occurring worldwide, including one in Virginia (Kepone incident in Hopewell). These circumstances led the State Air Pollution Control Board and policy-making groups in many other states to develop state-specific answers to the public health problems of HAPs. The states learned from federal experience that they needed a more expeditious process to assess and regulate HAPs than that used at the federal level. Many states, including Virginia, used occupational standards and extrapolated them for use in the ambient air.

By the late 1980s, the federal government realized that their approach to the evaluation and regulation of HAPs was not addressing the problem quickly enough. Instead of taking a health effects-based approach, the new 1990 Clean Air Act (the Act) addresses the problem through the initial establishment of control technology standards followed by a review to determine if the control technology standards sufficiently reduce public health risk. This approach addresses the problem quickly; all the control technology standards are to be established within the first 10 years following the signing of the Act. First, the Act establishes a list of 189 critical HAPs. Then, emission standards that establish maximum acceptable control technology (MACT) are developed for source categories that emit these HAPs. Once the MACT standards are developed, the federal government must assess what risk to human health remains from sources subject to the MACT standards and must establish further standards for those source categories causing significant public health concerns.

The Act provides a more expeditious approach to protecting public health and welfare with regard to HAPs. States with their own programs must now decide how to integrate these programs with the federal program.

While the number of HAPs regulated at the federal level has increased under the Act, the state program is essential to protect the health of the citizens of the Commonwealth during the time that the federal program is being developed. Without an interim state program, there will be no assurance that public health will be protected. Depending on the pollutant, health risks even from a small exposure to a HAP can be high. In addition, public concern about HAPs has remained high since multiple accidental releases occurred in the U.S. and abroad in the 1970s and early 1980s. Data reported for certain industries under the requirements established by the Emergency Planning and Community Right to Know Act, or Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA Title III) has heightened public awareness and concern about public health and exposure to HAPs emissions in Virginia by alerting its citizens to the quantity of these emissions released in the state. The data reported under this program indicates that Virginia has significant air emissions of SARA Title III chemicals. In 1992, Virginia was ranked 16th in the nation for total releases of these chemicals; 94% of those releases were into the air. Virginia has made significant strides since the reporting under this program began in 1987. Virginia's air releases dropped 57% between 1987 and 1993, although some of these reductions are attributable to reporting errors in the early years of the program. By providing a phase-out of the state program as the federal program gains strength, the environmental community will be assured that the state program provides adequate protection for public health until the federal program is fully implemented.

The regulations should be amended to provide that the state air toxics program will expire when the federal program for hazardous air pollutants (Title III of the federal Clean Air Act

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amendments of 1990) is implemented in its entirety. This recommendation is consistent with Recommendation 22 of the Governor's Commission on Government Reform to phase out the Virginia air toxics program as the federal air toxics program reaches maturity. In addition, the regulations should be amended to add language that explains the relationship between the state requirements for air toxics and the federal MACT requirements for hazardous air pollutants. By providing a phase-out of the state program as the federal program gains strength, the regulated community will be assured that the federal and state programs will not overlap. By providing additional language to make the federal and state program relationship clear, the regulated community will be assured of how these two different programs will work together. By making these changes, the environmental community will be assured that the state program provides adequate protection for public health until the federal program is fully implemented. There should be no increase or decrease in costs for either affected entities or the agency because the current policy of the State Air Pollution Control Board is to focus on the federal hazardous air pollutant list in its implementation of the air toxics rules.

The regulations should also be amended to limit applicability to the pollutants regulated under § 112 of the federal Clean Air Act as amended in 1990. This recommendation is consistent with Recommendation 22 of the Governor's Commission on Government Reform to limit the pollutants covered by the air toxics program. There should be no increase or decrease in costs for either affected entities or the agency because the current policy of the State Air Pollution Control Board is to focus on the federal hazardous air pollutant list in its implementation of the air toxics rules. In addition, the regulations should ensure that the department will retain the authority to review additional pollutants under limited circumstances, such as accidental releases or tire fires, and stipulate what those circumstances are. There should be no increase or decrease in costs for either affected entities or the agency because this authority currently exists in the regulations, although it is not specifically limited for special purposes.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are discussed below.

1. Take no action to amend the regulations. This option is not being selected because the current regulations do not explicitly make any provision for the relationship between the state program and the hazardous air pollutant program under § 112 of the Clean Air Act.
2. Make changes to the regulations. This option is being selected to allow the regulations to explicitly set out a relationship between the state requirements for air toxics and the federal requirements for hazardous air pollutants until the federal requirements are fully implemented.
3. Repeal the regulations in the absence of any legally binding state or federal mandates. This option is not

being selected because the continuance of the regulations will provide an interim state approach to provide protection of public health until the federal mandates are fully implemented.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The regulations are not mandated by federal or state law or regulation. The regulations were adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law. However, there is no specific requirement for the regulations.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on July 11, 1997, to Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

Contact: Dr. Kathleen Sands, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-534; Filed May 21, 1997, 10:57 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. E97)**. The regulation amendments are being proposed to address problems concerning the clarity of the regulation identified pursuant to the review of existing regulations mandated by Executive Order 15(94).

Public Meeting: A public meeting will be held by the department in the Training Room, Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, at 9 a.m. on June 11, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department will form an ad hoc advisory group to assist in the development of the regulation. If you desire to be on the group, notify the agency contact in writing by 4:30 p.m. on June 12, 1997, and provide your name, address, phone number and the organization you represent (if any). Notification of the composition of the ad hoc advisory group will be sent to all applicants. If you wish to be on the group, you are encouraged to attend the public meeting mentioned above. The primary function of the group is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus.

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Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The contemplated regulation is essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

The agency performed an analysis to determine if statutory mandates justify continuation of the regulation. The analysis revealed that statutory justification does exist for the regulation. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force with the provisions that initiated adoption of the regulation still intact.

Analysis reveals that the regulation is consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program, and air pollution control methodology and technology) which justified the original issuance of the regulation have not changed to a degree that would justify a change to the basic requirements of the regulation.

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. This regulation, Rule 4-8, was adopted in 1972, when no detailed guidance existed. Therefore, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to meet the air quality standards for particulate matter and sulfur dioxide, which are emitted by fuel burning equipment.

While the regulation meets federal requirements, the definition of fuel burning equipment should be revised to make it clear that it includes stationary internal combustion engines such as diesel generators and combustion turbines. Current DEQ interpretation of this regulation excludes these types of internal combustion engines. Consequently, stationary internal combustion engines are covered by the provisions of Rule 4-4 (General Process Operations). However, that rule excludes liquid and gaseous fuels from the definition of "process weight," so internal combustion engines have no process weight upon which to base a determination of allowable emissions. In addition, the exclusion of internal combustion engines from the definition of fuel burning equipment in Rule 4-8 makes it impossible for these engines to be included with boilers at the same source for determination of allowable emissions or to participate in an emission allocation system under Rule 4-8. Therefore, the definition of an affected entity needs to reflect that this type of source is in fact affected by this rule.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the third alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation amendments. The alternatives considered by the department are as follows:

1. Take no action to amend the regulation. This option is not being selected because the current regulation does not adequately identify the entity to which the provisions of the regulation apply.
2. Make alternative regulatory changes to those required by the provisions of the legally binding state or federal mandates. This option is not being selected because it could result in the imposition of requirements that place unreasonable hardships on the regulated community.
3. Amend the regulation to adequately identify the regulated entity to which the provisions of the regulation apply. This option has been selected in order to improve understanding and clarity of the regulation.

As provided in the public participation procedures of the State Air Pollution Control Board, the department will include, in the subsequent Notice of Intended Regulatory Action, a description of the above alternatives and a request for comments on other alternatives and the costs and benefits of the above alternatives or the other alternatives that the commenters may provide.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The contemplated regulation amendments are mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate are as follows:

Section 110(a) of the Clean Air Act mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the Clean Air Act, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
2. Establish schedules for compliance;
3. Prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and

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4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, and complaints, transportation control measures, and procedures for continuous emissions monitoring.

Section 51.214(c) under Subpart K specifies that the state implementation plan must contain procedures which require the types of sources set forth in Appendix P to meet the applicable requirements. Appendix P sets forth the minimum requirements for continuous emission monitoring and recording that each state implementation plan must include in order to be approved. The following source types specifically require monitoring: (i) fossil fuel-fired steam generators, monitored for opacity, nitrogen oxides emissions, sulfur dioxide emissions, and oxygen or carbon dioxide; (ii) fluid bed catalytic cracking unit catalyst regenerators, monitored for opacity; (iii) sulfuric acid plants, monitored for sulfur dioxide emissions; and (iv) nitric acid plants, monitored for nitrogen oxides emissions.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;
3. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
4. Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will

prevent the attainment or maintenance of a national standard;

5. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and

7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and
2. The plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Subpart N (Compliance Schedules) specifies legally enforceable compliance schedules, final compliance schedule dates, and conditions for extensions beyond one year.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on June 12, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen G. Sabasteanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-411; Filed April 15, 1997, 8:26 a.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to consider amending regulations entitled: **9 VAC 5-40-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. C97)**. The purpose of the proposed action is to repeal Emission Standards for Mobile Sources (Article 41; 9 VAC 5-40-5650) because they have been determined to be no longer required by federal mandate

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pursuant to the review of existing regulations mandated by Executive Order 15(94).

Public Meeting: A public meeting will be held by the department in the Training Room, First Floor, Department of Environmental Quality, 629 E. Main Street, Richmond, Virginia, at 9 a.m. on Wednesday, June 11, 1997, to discuss the intended action. Unlike a public hearing, which is intended only to receive testimony, this meeting is being held to discuss and exchange ideas and information relative to regulation development.

Ad Hoc Advisory Group: The department is soliciting comments on the advisability of forming an ad hoc advisory group, utilizing a standing advisory committee or consulting with groups or individuals registering interest in working with the department to assist in the drafting and formation of any proposal. The primary function of any group, committee or individuals that may be utilized is to develop recommended regulation amendments for department consideration through the collaborative approach of regulatory negotiation and consensus. Any comments relative to this issue may be submitted until 4:30 p.m. on Thursday, June 12, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Public Hearing Plans: After publication in the Virginia Register of Regulations, the department will hold at least one public hearing to provide opportunity for public comment on any regulation amendments drafted pursuant to this notice.

Need: The regulation is no longer essential (i) to protect the health, safety or welfare of citizens or (ii) for the efficient and economical performance of an important governmental function. It now exceeds the specific minimum requirements of legally binding state and federal mandates. An explanation as to how this conclusion was reached is set forth below.

The regulation is no longer needed for air pollution planning purposes. The regulation was adopted in order to implement the policy set forth in the Virginia Air Pollution Control Law and to fulfill the Commonwealth's responsibilities under the Federal Clean Air Act to provide a legally enforceable State Implementation Plan for the control of criteria pollutants. These statutes still remain in force, but the provisions that initiated adoption of the regulation have changed.

Analysis reveals that the regulation is not consistent with applicable state and federal regulations, statutory provisions, and judicial decisions. Factors and circumstances (federal statutes, original intent, state air quality program and air pollution control methodology and technology) which justified the initial issuance of the regulation have changed to a degree that would justify a change to the basic requirements of the regulation.

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. This regulation, Rule 4-41,

was adopted in 1972, when no detailed guidance existed. Therefore, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to meet the air quality standard for particulate matter, which is emitted by mobile sources.

Since Rule 4-41 was adopted in 1972, important changes have been made to the State Implementation Plan which have resulted in significantly better control of the emissions this regulation was designed to limit. For instance, under the 1990 amendments of the Clean Air Act, all motor vehicles in Virginia's metropolitan urban areas (two million vehicles out of the statewide total of five million) are now or will soon be subject to inspection and maintenance (I/M) programs, which will provide for a higher level of stringency for control of visible emissions and other pollutants than the level provided for by Rule 4-41. In addition, the enforcement of antitampering prohibitions is accomplished through statewide safety inspections carried out by the state police. (The antitampering provisions of Rule 4-41 merely duplicate those of § 46.2-1048 of the Code of Virginia.) In light of these newer and more effective controls, the regulation should be rescinded.

Alternatives: Alternatives to the proposed regulation amendments being considered by the department are as follows:

1. Take no action to amend the regulation. This option is not being selected for the reason specified below in 3.
2. Make alternative regulatory changes to those required by the provisions of the legally binding state or federal mandates. This option is not being selected because no such changes are warranted.
3. Amend the regulation to satisfy the provisions of the legally binding state or federal mandates. This option is being selected because statutory justification no longer exists for the regulation. Since the adoption of this rule, changes to the State Implementation Plan have resulted in more effective methods to control the emissions this regulation was designed to limit. The inspection and maintenance programs mandated by the 1990 Clean Air Act for Virginia's metropolitan urban areas will provide for a higher level of stringency for control of visible emissions and other pollutants than the level provided for by Rule 4-41. In addition, the enforcement of anti-tampering prohibitions is accomplished through statewide safety inspections carried out by the state police.

Costs and Benefits: The department is soliciting comments on the costs and benefits of the alternatives stated above or other alternatives.

Applicable Statutory Requirements: The regulation was originally mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate are as follows:

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Section 110(a) of the Clean Air Act mandates that each state adopt and submit to EPA a plan which provides for the implementation, maintenance, and enforcement of each primary and secondary air quality standard within each air quality control region in the state. The state implementation plan shall be adopted only after reasonable public notice is given and public hearings are held. The plan shall include provisions to accomplish, among other tasks, the following:

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the Clean Air Act, including economic incentives such as fees, marketable permits, and auctions of emissions rights;
2. Establish schedules for compliance; and
3. Prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state.

40 CFR Part 51 sets out requirements for the preparation, adoption, and submittal of state implementation plans. These requirements mandate that any such plan shall include several provisions, including those summarized below.

Subpart G (Control Strategy) specifies the description of control measures and schedules for implementation, the description of emissions reductions estimates sufficient to attain and maintain the standards, time periods for demonstrations of the control strategy's adequacy, an emissions inventory, an air quality data summary, data availability, special requirements for lead emissions, stack height provisions, and intermittent control systems.

Subpart K (Source Surveillance) specifies procedures for emissions reports and recordkeeping, procedures for testing, inspection, enforcement, complaints, transportation control measures, and procedures for continuous emissions monitoring.

Subpart L (Legal Authority) specifies the requirements for legal authority to implement plans.

Section 51.230 under Subpart L specifies that each state implementation plan must show that the state has the legal authority to carry out the plan, including the authority to perform the following actions:

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;
3. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
4. Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result

in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;

5. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;
6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and
7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

Section 51.231 under Subpart L requires the identification of legal authority as follows:

1. The provisions of law or regulation which the state determines provide the authorities required under this section must be specifically identified, and copies of such laws or regulations must be submitted with the plan; and
2. The plan must show that the legal authorities specified in this subpart are available to the state at the time of submission of the plan.

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m. on Thursday, June 12, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Karen G. Sabastanski, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4426, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

VA.R. Doc. No. R97-412; Filed April 15, 1997, 8:27 a.m.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects intends to consider amending regulations entitled: **18 VAC 10-20-10 et seq. Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects Rules and Regulations.** The purpose of the proposed action is to (i) amend and clarify the requirements to sit for

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the engineering examinations; (ii) amend and clarify the requirements to sit for the land surveying examinations; (iii) clarify that the NCARB IDP is required for all architectural examination candidates; and (iv) make other clarifications and amendments. Other changes to the regulation which may be necessary will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-404 and 54.1-411 of the Code of Virginia.

Public comments may be submitted until July 11, 1997.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8514, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VA.R. Doc. No. R97-527; Filed May 16, 1997, 2:09 p.m.

STATE BOARD OF EDUCATION

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Education intends to consider repealing regulations entitled: **8 VAC 20-20-10 et seq. Regulations Governing the Licensure of School Personnel and promulgating regulations entitled: 8 VAC 20-21-10 et seq. Regulations Governing the Licensure of School Personnel.** The purpose of this action is to repeal the Licensure Regulations for School Personnel and promulgate new regulations. The need to repeal the old regulations and establish new ones is based on the need to (i) align the licensure requirements for school personnel with the requirements of the Standards of Learning objectives for students; (ii) establish a statewide licensure system for all teacher education approved programs and continue to provide some flexibility for institutions with approved programs; and (iii) reduce the number of endorsements from the current 104. The proposal establishing new regulations accomplishes all three objectives, including recommending a reduction of 47% (from the current 104 to 49) in current endorsement areas. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 22.1-298 of the Code of Virginia.

Public comments may be submitted until June 13, 1997.

Contact: Dr. Thomas A. Elliott, Assistant Superintendent for Compliance, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 371-2522.

VA.R. Doc. No. R97-416; Filed April 15, 1997, 2:29 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to consider promulgating regulations entitled: **Conduct of Informal Appeals; Conduct of Formal Appeals.** The purpose of the proposed action is to provide a basic framework for the orderly and timely conduct of informal and formal appeals brought pursuant to the Administrative Process Act (§ 9-6.14.1 et seq. of the Code of Virginia). The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 32.1-325 of the Code of Virginia.

Public comments may be submitted until June 11, 1997.

Contact: Victoria P. Simmons or Roberta J. Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8850 or FAX (804) 371-4981.

VA.R. Doc. No. R97-429; Filed April 23, 1997, 10:40 a.m.

DEPARTMENT OF MINES, MINERALS AND ENERGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Mines, Minerals and Energy intends to consider amending regulations entitled: **4 VAC 25-100-10 et seq. Regulations Governing Vertical Ventilation Holes and Mining Near Gas and Oil Wells.** The purpose of the proposed action is to amend the Department of Mines, Minerals and Energy's (DMME) regulations governing drilling, equipping and operating vertical ventilation holes used to remove methane from underground coal mines. It also governs the practice of mining near or through a vertical ventilation hole or gas well. Use of vertical ventilation holes affects the safety of underground miners through their removal of explosive methane from the mine atmosphere, and due to potential hazards associated with mining activity occurring in close proximity to the vertical ventilation holes. The regulations are also necessary to protect the welfare of citizens having interests in the vicinity of a location of a vertical ventilation hole.

The amendments will implement the recommendations identified during DMME's regulation review under Executive Order 15(94). The recommendations will streamline the regulatory process, eliminate unnecessary regulatory requirements, clarify language, and implement changes based on DMME, mine operator, coal miner, and citizen experience implementing the regulation since it was last amended in 1991. Copies of the regulatory review report are available at the Department of Mines, Minerals and Energy,

Division of Mines, Big Stone Gap, Virginia, and the Department of Mines, Minerals and Energy, 202 North Ninth Street, 8th Floor, Richmond, Virginia. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 45.1-161.3, 45.1-161.106, 45.1-161.121, 45.1-161.254, and 45.1-161.292.

Public comments may be submitted until June 30, 1997.

Contact: Frank Linkous, Mine Division Chief, Department of Mines, Minerals and Energy, U.S. Route 23 South, P.O. Drawer 900, Big Stone Gap, VA 24219, telephone (540) 523-8100, FAX (540) 523-8239, or toll-free 1-800-828-1120 (VA Relay Center)

VA.R. Doc. No. R97-485; Filed May 7, 1997, 9:51 a.m.

MOTOR VEHICLE DEALER BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Motor Vehicle Dealer Board intends to consider amending regulations entitled: **24 VAC 22-30-10 et seq. Motor Vehicle Dealer Advertising Practices and Enforcement Regulations.** The purpose of the proposed action is to make amendments that are essentially technical in nature, primarily to clarify the overall scope and applicability of the regulation. The action also provides an opportunity for the public and those regulated to submit their suggestions as to the scope and applicability of the regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 46.1-1506 and 46.2-1582 of the Code of Virginia.

Public comments may be submitted until July 11, 1997.

Contact: Bruce Gould, Executive Director, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

VA.R. Doc. No. R97-526; Filed May 20, 1997, 11:53 a.m.

BOARD OF NURSING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **18 VAC 90-20-10 et seq. Regulations Governing the Practice of Nursing.** The Board of Nursing proposes action on the recommendations of its Executive Order 15(94) report as follows:

1. In the initial approval of nursing education programs, the board intends to eliminate several burdensome requirements such as submission of a study

documenting need and a current catalog and reduce the time required for submission of information prior to the expected opening date from 15 to 12 months. The board also recommends moving the requirement for the institution to graduate its first class prior to final approval from Phase II to Phase III of the process.

2. In requirements for organization and administration, the board recommends elimination of the requirement for authorization by the charter of the controlling institution as unnecessary or redundant of other regulations. It also intends to provide more flexibility by specifying that the governing institution be accredited by a "state agency or by a certifying body recognized by the U. S. Department of Education" and to clarify that the agency or institution is one utilized "as a clinical experience facility" and that it shall be in good standing with the appropriate licensing body.

3. In an effort to clarify the role of the director of the nursing education program, the board recommends model language from the National Council of State Boards of Nursing. An amendment is recommended to clarify that there must be evidence of financial support and resources to meet the goals of the program in order to address a problem for students who are harmed by programs being abruptly terminated.

4. The board recommends amendments to eliminate program objectives that are difficult to measure and to clarify the requirements.

5. The board recommends continuing review and clarification of its requirements for faculty qualifications and reorganization and rewording to streamline the content of the regulations.

6. The board will consider amendments which will provide for a broader regulation on the proportional number of faculty to students. In its consideration, the board will consult with educators and clinical supervisors to determine a proportion that is sufficient to promote safety for patients to whom students provide care. It will also consider amendments to make the ratio requirement of faculty to students in a clinical setting less restrictive when preceptors are being utilized.

7. The board intends to promulgate other amendments which will eliminate unnecessary requirements such as the conditions of employment for faculty and the organizational requirements for the nursing faculty and will revise regulations on the principal functions of the faculty for clarification.

8. The board recommends a less restrictive and costly requirement which permits clinical supervision of students in a nursing program by preceptors rather by faculty in written agreements with cooperating agencies.

9. The board recommends amendments to permit the schools more flexibility and autonomy in revising curriculum.

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10. The board recommends elimination of the burdensome and expensive reporting to the board when a school intends to make changes in its nursing education program.

11. To conform to changes in the Code of Virginia regarding the Education Special Conference Committee, the board intends to reduce the number of persons required to serve from three to two and to clarify other references in regulation to the committee.

12. In its regulations on the closing of an approved nursing education program, the board recommends elimination of the specific procedures which a school must follow.

13. The board recommends consideration of amendments to Part III on Licensure and Practice which organize the requirements for greater clarity but which do not change the substance of the regulations, which the board finds to be necessary and reasonable.

14. In the requirements for approval of a nurse aide education program, the board recommends the addition of evidence of financial support and resources sufficient to meet the minimal requirements of these regulations to address a problem of nurse aide students who have lost tuition payments amounting to several thousand dollars.

15. In the section which sets forth qualifications for instructors in a nurse aide education program, the board will consider an amendment to the current requirement for the primary instructor to have experience as a RN for two years within the previous five years with at least one year in a long-term care facility.

16. The board will also consider other modifications to the requirements for nurse aide education to make some regulations less restrictive and eliminate some requirements which are no longer necessary.

17. The board recommends an amendment in Part VI on the Medication Administration Training Program to require a test at the conclusion of the program to provide some measure of assurance for the safety of the public that the person has minimum competency.

In addition to the recommended changes resulting from the review of regulations, the Board of Nursing has identified two issues which it seeks to address through promulgation of proposed regulations.

A. Identification of Category of Licensure for Patient Protection

In order for the public to be informed about the health care they are receiving, the board intends to consider amending its regulation to require registered nurses, licensed practical nurses, certified nurse aides, and clinical nurse specialists to identify themselves by name and appropriate title to their patients.

B. Establishment of protocol for administration of adult vaccines by certain practitioners.

In the 1996 General Assembly, the Drug Control Act was amended to permit the administration of adult vaccines by registered nurses when a person when prescriptive authority was not present under a protocol approved by the Board of Nursing. For consistency and ease of administration, the board has determined that development of a regulation for such a protocol would be in the best interest of public safety. Through the establishment of a standard protocol, the groups seeking to operate "flu vaccine clinics" would have guidelines to follow.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until June 11, 1997.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943, or (804) 662-7197/TDD☎

VA.R. Doc. No. R97-420; Filed April 22, 1997, 12:59 p.m.

BOARD OF OPTOMETRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to consider amending regulations entitled: **18 VAC 105-30-10 et seq. Regulations Governing the Certification of Optometrists to Use Therapeutic Pharmaceutical Agents.** The purpose of the proposed action is to clarify regulations, to eliminate unnecessary regulations, and to conform regulations to current regulations for the licensure of optometrists as follows:

1. Amendments to the definition of "postgraduate clinical training" to track the language of the statute. Definitions for terms such as "invasive modality" and "protocol," which are not used in the regulations, may be eliminated.

2. Since the certification of optometrists to administer Therapeutic Pharmaceutical Agents is now provided by the Board of Optometry, requirements for submission of certain documents and verification from the Board of Optometry (to the Board of Medicine) are no longer needed in regulation and may be deleted.

3. In the section setting forth the examination for certification, the board needs to identify that examination as the National Board of Optometry's examination in the Treatment and Management of Ocular Diseases known as TMOD, which is now being given as a part of the national examination in optometry. The board intends to also include the option of "an examination acceptable to the board" to allow for another examination which will be subsequently developed.

4. For consistency with the amended Code of Virginia section, the listing of Therapeutic Pharmaceutical Agents in this section should include a regulation permitting the use of epinephrine administered intramuscular for anaphylactic shock. Likewise, the board will consider an amendment to use Therapeutic Pharmaceutical Agents appropriate to the initiation of emergency treatment of acute angle closure glaucoma.

5. In order to provide consistency in the renewal cycle for the optometrist license and the Therapeutic Pharmaceutical Agent certification, the board intends to amend this section to have the two renewed at the same time.

6. The board intends to clarify that in addition to the one postgraduate program approved for Therapeutic Pharmaceutical Agent certification, other programs which provide the minimum number of clinical hours of education may be acceptable.

7. Amendments are necessary for consistency or to eliminate redundancy.

8. The board intends to consider a reduction in the application fee from \$300 to \$200 since that fee no longer includes administration of an examination and an adjustment in the renewal fee for certification from a biennial to an annual fee of approximately one half the current amount.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 32 of Title 54.1 of the Code of Virginia.

Public comments may be submitted until June 11, 1997.

Contact: Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9910, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VA.R. Doc. No. R97-421; Filed April 22, 1997, 12:59 p.m.

PESTICIDE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Pesticide Control Board intends to consider amending regulations entitled: **2 VAC 20-50-10 et seq. Requirements Governing Pesticide Applicator Certification Under Authority of the Virginia Pesticide Control Act.** The purpose of the proposed action is to amend the current regulation to clarify requirements for certification of applicators of pesticides in accordance with statutory changes effective July 1, 1995, in §§ 3.1-249.27, 3.1-249.51, and 3.1-249.53 of the Code of Virginia. In addition, several amendments to be considered by the Pesticide Control Board include but are not limited to:

categories of pesticide applicators, certification Requirements for pesticide applicators, certification standards for pesticide applicators, suspension and revocation of certificates, denial of certification, reciprocal certification, recordkeeping requirements, evidence of financial responsibility, and general housekeeping changes to make the regulation clearer. In addition, as a part of this regulatory action, the agency intends to review the regulation for effectiveness and continued need and to eliminate unnecessary duplication of language. In addition to receiving comments about the regulation itself and contemplated amendments related thereto, the agency also invites comment on whether there should be an advisor for the purpose of this regulatory action. An advisor is (i) a standing advisory panel; (ii) an ad hoc advisory panel; (iii) consultation with groups; (iv) consultation with individuals; and (v) any combination thereof. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 3.1-249.30 of the Code of Virginia.

Public comments may be submitted until noon on June 15, 1997.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Room 401, 1100 Bank St., Richmond, VA 23218, telephone (804) 371-6558, FAX (804) 371-8598, toll-free 1-800-552-9963, or (804) 371-6344/TDD ☎

VA.R. Doc. No. R97-428; Filed April 23, 1997, 9:24 a.m.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Professional Counselors and Marriage and Family Therapists intends to consider amending regulations entitled: **18 VAC 115-20-10 et seq. Regulations Governing the Practice of Professional Counseling.** The purpose of the proposed action is to clarify and simplify regulations pursuant to recommendations of Executive Order 15(94) as follows:

1. Establish an endorsement procedure for applicants with lengthy experience licensed in other states.
2. Include a reference to Regulations Governing the Certification of Sex Offender Treatment Providers.
3. Consider specialty designations under the professional counselor license.
4. Update and clarify educational requirements.
5. Recognize programs accredited by the Council of Accreditation for Counseling and Related Educational Programs, and the Commission on Rehabilitation

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Education as meeting the definition of a graduate degree in counseling.

6. Accept National Counselor Certification as fulfillment of the requirement for a graduate degree in counseling.

7. Reduce the hour requirement for the supervised residency from 4,000 to 3,000 hours and clarify the residency requirement.

8. Change the requirement for supervisors to submit annual evaluations to the board to submit evaluations directly to the applicant.

9. Include a provision to approve graduate programs that contain the core course work requirements and a 2,000 hour residency and allow graduates from those programs to sit for the examination upon receipt of the graduate degree.

10. Include a requirement for licensees to notify the board of change of name or address.

11. Simplify the reinstatement procedure for lapsed licenses.

12. Expand the requirement to report violations of the laws and regulations governing the practice of professional counselors to include violations committed by any mental health service provider.

13. Consider incorporating any ethical standards of the American Counseling Association that might enhance the board's ability to protect the public from unethical practitioners.

The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 54.1-2400 and Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia.

Public comments may be submitted until June 25, 1997.

Contact: Janet D. Delorme, Deputy Executive Director, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9575 or FAX (804) 662-9943.

VA.R. Doc. No. R97-492; Filed May 7, 1997, 11:36 a.m.

REAL ESTATE BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Real Estate Board intends to consider amending regulations entitled: **18 VAC 135-40-10 et seq. Time-Share Regulations**. The purpose of the proposed action is to review and seek public comment on the registration and disclosure requirements for time-shares offered and disposed of in the Commonwealth of Virginia.

Other changes to the regulations which may be necessary will be considered. The agency intends to hold a public on the proposed regulation after publication.

Statutory Authority: § 55-396 of the Code of Virginia.

Public comments may be submitted until June 27, 1997.

Contact: Emily O. Wingfield, Property Registration Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8510, FAX (804) 367-2475, or (804) 367-9753/TDD ☎

VA.R. Doc. No. R97-481; Filed May 6, 1997, 11:47 a.m.

SOIL AND WATER CONSERVATION BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Soil and Water Conservation Board intends to consider promulgating regulations entitled: **4 VAC 50-60-10 et seq. Watershed Improvement District Referenda Regulations**. The purpose of the proposed action is to develop regulations which will specify arrangement for the conduct of referenda associated with the formation and operation of a watershed improvement district (WID).

Need: The proposed regulation is needed to make an electoral process efficient, complete, and consistent. Promulgation should make it possible to carry out existing law for the establishment of a watershed improvement district (WID). Unfortunately, the completion of the regulations may automatically make other required resources and expertise unavailable from the State Board of Elections, local boards of elections, and registrars. A WID is a means for local citizens to organize themselves into a self-governing unit capable of accepting moneys and financing needed environmental structures. This enables community determination of needs, which may serve to prevent state or federal imposition of natural resource requirements.

This is not a new intent of state law. The change merely designates different responsibility for setting referenda procedures. Formerly the responsible entity was the local Soil and Water Conservation District; now it is the Virginia Soil and Water Conservation Board, which already is accountable for land and water management and oversight of Virginia's 46 soil and water conservation districts.

Substance and Purpose: The referendum is the means by which landowners in a particularly defined area can vote to determine if a watershed improvement district should be created, and to determine if taxes and service charges should be levied to support the financial commitments of that WID to make improvements. Through these regulations, citizens will have an ability to address unique natural resource issues in conjunction with their locally elected soil and water conservation district (SWCD).

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State law authorizes establishment of a WID within a soil and water conservation district or districts. A referendum that must pass both among the resident landowners and among all the qualified voters has been the mechanism for determining the WID's existence. The passage limit on the landowner portion of the referendum must be by two-thirds in favor who also must own two-thirds of the land. Passage of the referendum portion by all qualified voters is by simple majority.

Recodification of the election laws several years ago inadvertently affected the WID formation process by not addressing the WID references to the election laws. In response, the 1995 General Assembly mandated that the referenda authorized under the WID law be governed by regulations developed by the Virginia Soil and Water Conservation Board. This will ensure that SWCD's across the state employ a consistent process, rather than each SWCD individually having to establish procedures for elections.

Estimated Impact: The regulations enable citizens to form a special assessment district, allowing the natural resource needs of a particular locale to be addressed and treated according to the wishes of the residents. Additional taxes and charges may be approved by referenda and collected to finance needed functions and structures within the district. A WID may incur indebtedness, borrow funds and issue bonds, subject to voter approval and landowner approval by referenda. The economic impact of this regulatory proposal will depend on the needs of each area, and only if the qualified voters and the landowners themselves wish for it to occur.

The regulations will name persons to conduct a referendum and describe associated administrative systems. The placement of perfunctory duties will be determined through expert advice and suggestions received during the public processes of the Administrative Process Act and the board's Regulatory Public Participation Procedures. While many details cannot be predicted at this preliminary stage, the least burdensome option will be selected so as to minimize the procedural steps associated with a referendum. The Department of Conservation and Recreation and the Virginia Soil and Water Conservation Board are very mindful of the limitation of resources and do not want to afflict themselves, soil and water conservation districts or citizens with minutia and technicalities that go beyond the minimum legal and effective requirements for a secure election.

Alternatives: The agency is not aware of any less burdensome or less intrusive alternatives for achieving the intent of the statute, aside from promulgating a set of uniform regulations for use throughout the Commonwealth. These regulations are not intended to be burdensome, nor intrusive, but, rather to promote essential American freedoms, including that of voting, expressing individual views, and helping to shape the character of one's local community. Electoral processes are a necessary function of government. Taxation is also an essential function of government. In this case, these functions are placed at the local level closest to the

people. All alternatives considered are outside the scope of the regulatory process and would require legislative action.

Alternatives considered involve:

1. Rewrite of the Watershed Improvement District Act to require the joint responsibility of the State Board of Elections, local boards of elections, and local registrars; the Virginia Soil and Water Conservation Board, the Director of the Department of Conservation and Recreation, and the local soil and conservation districts. Current law fractures these resources and appears to make the actual functioning of referenda unworkable due to the absence of one or more of the above required parties to carry out the process. Currently either the expertise and support of the State Board of Elections is missing or the specific methodology required by §§ 10.1-617, 10.1-625, 10.1-628, and 10.1-634 of the Code of Virginia to hold referenda is missing. This alternative should be explored, but is beyond the current requirement to produce a set of regulations. Such an alternative would require major statutory changes and is outside of this regulatory process.

2. Amendments to the basic law to ensure the continued involvement of the State Board of Elections, local boards of elections, and local registrars. Under current law, the responsibilities of the State Board of Elections for such WID referenda will end with the effective date of the proposed regulations. The Department of Conservation and Recreation cannot understand how the referenda process would function without these resources. The Virginia Soil and Water Conservation Board and the department would have to duplicate the processes and resources of the state and local boards of elections and local registrars. Such an alternative would require major statutory and budget changes and is outside of this regulatory process.

3. Amendment of the existing law to require the 46 local soil and water conservation districts individually to promulgate regulations. First, they probably would be required to promulgate individual sets of public participation procedures. Second, they would be required to promulgate individual sets of Watershed Improvement District Referenda Regulations. Thus there would be an additional 92 sets of regulations in the Commonwealth, which would surely differ and cause confusion to the public, particularly when WID proposals overlap jurisdictional boundaries. Further, this scenario would require districts to duplicate, on an individual district basis, the processes and resources of the state and local boards of elections and local registrars. Such an alternative would require major statutory changes and is outside of this regulatory process.

4. Amendment of the existing law to centralize the local soil and water conservation districts' authority under § 10.1-617 of the Code of Virginia to develop individual and separate regulations to conduct a public hearing as permitted by § 10.1-616 of the Code of Virginia under the

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authority of the Virginia Soil and Water Conservation Board. Current wording is permissive, not mandatory, for the local soil and water conservation districts to develop such regulations. If centralized, the Virginia Soil and Water Conservation Board could be directed to incorporate such requirements into these Watershed Improvement District Referenda Regulations to provide one uniform set of requirements statewide to cover this entire process. Such an alternative would require major statutory changes and is outside of this regulatory process.

5. Amendment to simply repeal the local soil and water conservation districts' authority under § 10.1-617 of the Code of Virginia to develop individual and separate regulations to conduct a public hearing as permitted by § 10.1-616 of the Code of Virginia. If repealed, the local soil and water conservation districts would rely upon the Virginia Freedom of Information Act and any other pertinent laws to conduct the public meeting. Such an alternative would require major statutory changes and is outside of this regulatory process.

Ad hoc Committee: The director intends to form an ad hoc committee to assist the board and department in gathering data and issues and in developing draft, proposed regulations. Meetings of the ad hoc committee will be public and published in The Virginia Register of Regulations.

The department requests comments on the costs and benefits of the stated alternatives or other alternatives.

The director intends to hold at least one public hearing on the proposed regulation after it is formally adopted by the board as a proposed regulation and it is published in The Virginia Register of Regulations.

To be considered, written comments should be directed to Mr. Leon E. App at the address below and must be received by 4 p.m. on Tuesday, July 29, 1997. In addition, the department's staff will hold a public hearing on Thursday, May 15, 1997, at 7 p.m. in House Room C of the Virginia General Assembly Building located at 910 Capitol Street, Richmond, Virginia 23219, to receive views and comments and to receive questions of the public.

Accessibility to Persons with Disabilities: The May 15, 1997, a public meeting is being held at a public facility accessible to persons with disabilities. Any person with questions on the accessibility of the facilities should contact Mr. Leon E. App at the address below or by telephone at 804/786-4570. Persons needing interpreter services for the deaf must notify Mr. App no later than Thursday, May 8, 1997, at 4 p.m.

Applicable Laws and Regulations: Chapter 6 (§ 10.1-614 et seq.) of Title 10.1 of the Code of Virginia, especially §§ 10.1-634.1, 10.1-617, 10.1-624, 10.1-628 and 10.1-634.

Chapters 1.1:1 (§ 9-6.14:4.1 et seq.) and 1.2 (§ 9-6.15 et seq.) of Title 9 of the Code of Virginia.

The Virginia Soil and Water Conservation Board's Regulatory Public Participation Procedures found at 4 VAC 50-10-10 et seq. and formerly VR 625-00-00:1 apply.

Governor Allen's Executive Order 13 (94), Review of Regulations Proposed by State Agencies.

Note: It must be assumed at this time that the federal voting rights laws apply to this action. Advice from the Attorney General's Office is to complete the Virginia regulatory actions and then submit the final regulation product to the Attorney General who will forward it to the U. S. Department of Justice for their review and determination of coverage.

Public Hearing Plans: On behalf of the board, the department seeks oral and written comments from interested persons on the intended regulatory action and on the costs and benefits of any alternative actions. In particular, the department requests comments on how the board may best develop these regulations to account for the total referenda process without assistance or resources from the State Board of Elections, local boards of elections and local registrars.

Additional Information: For additional information, review or copies of material or applicable laws and regulations, contact Mr. App at the address below.

Statutory Authority: § 10.1-634.1 of the Code of Virginia.

Public comments may be submitted until 4 p.m. on July 29, 1997.

Contact: Leon E. App, Conservation and Development Programs Supervisor, Department of Conservation and Recreation, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

VA.R. Doc. No. R97-396; Filed April 9, 1997, 11:32 a.m.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider amending regulations entitled: **24 VAC 30-20-10 et seq. General Rules and Regulations of the Commonwealth Transportation Board.** The purpose of the proposed action is to revise the existing regulation, which establishes general guidelines, policies, and procedures that commercial, private, and governmental applicants must follow when seeking to perform work within the VDOT-owned or controlled right of way, to make it compatible with current state and federal regulations and current and future technology. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 33.1-12(3) of the Code of Virginia.

Public comments may be submitted until June 25, 1997.

Notices of Intended Regulatory Action

Contact: Richard R. Bennett, Assistant Division Administrator, Right of Way and Utilities Division, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2923, FAX (804) 786-1706, or toll-free 1-800-307-4630/TDD ☎

VA.R. Doc. No. R97-496; Filed May 6, 1997, 2:06 p.m.

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Commonwealth Transportation Board intends to consider promulgating regulations entitled: **24 VAC 30-215-10 et seq. Utility Accommodation Policy.** The purpose of the proposed action is to clarify and amend the terms and conditions under which utility facilities may be granted access to highway right of way as required by current federal and state regulations. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: § 33.1-12(3) of the Code of Virginia.

Public comments may be submitted until June 25, 1997.

Contact: Richard R. Bennett, Assistant Division Administrator, Right of Way and Utilities Division, Department of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-2923, FAX (804) 786-1706, or toll-free 1-800-307-4630/TDD ☎

VA.R. Doc. No. R97-495; Filed May 6, 1997, 2:06 p.m.

STATE WATER CONTROL BOARD

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-430-10 et seq. Roanoke River Basin Water Quality Management Plan.** The purpose of the proposed action is to amend the regulation to change the wasteload allocation for selected VPDES permitted discharges. The amendment increases the waste load allocations in the WQMP for the Burlington Industries - Clarksville discharge and the Town of Boydton Municipal Sewage Treatment Plant (STP) discharge based on the results of mathematical modeling of water quality in the receiving water bodies. The amendment also specifies an individual wasteload allocation for the Town of Clarksville Municipal STP, because the town's waste load allocation is currently combined with the Burlington Industries - Clarksville wasteload allocation. The specific recommended changes to the wasteload allocations for the affected discharges are as follows:

1. For WQMA VII - Clarksville-Chase City-Boydton, in Table 2 - Wasteload Allocations for Significant Discharges for Selected Alternative, change 303(e) Wasteload Allocation (BOD₅) for Clarksville STP, Burlington Ind. - Clarksville from 786.00 lbs/day to 1,924

lbs/day (872.5 kg/d). Define discharge-specific allocations as follows:

Clarksville STP	131 lbs/day (59.5 kg/day) BOD ₅
Burlington Ind. - Clarksville	1,793 lbs/day (813 kg/day) BOD ₅

2. Change 303(e) Wasteload Allocation for Boydton as presented in Table 3 - Wasteload Allocations for Dischargers with Tiered Permits, as follows:

Existing:

Months	Flow (mgd)	Effluent D.O.	cBOD ₅ (lbs/day)	BOD ₅ (mg/l)	Ammonia (mg/l)
Jan.- Apr.	0.145	6.5	36.30	30.0	1.0
May- June	0.145	6.5	18.10	15.0	1.0
July-Oct.	0.145	6.5	6.00	5.0	1.0
Nov.- Dec.	0.145	6.5	18.10	15.0	1.0

Proposed:

Months	Flow (mgd)	Effluent (D.O.) (mg/l)	cBOD ₅ (lbs/day)	cBOD ₅ (mg/l)	TKN (lbs/ day)	TKN (mg/l)
May- Nov.	0.360	5.0	39.1	13.0	9.1	3.0
Dec.- Apr.	0.360	5.0	75.1	25.0	---	---

Description of the Intent of the Regulatory Action

The intent of the regulatory action is to allow increased waste loads for two discharges currently permitted under the Virginia Pollutant Discharge Elimination System (VPDES). The discharges have requested revised waste load allocations in their VPDES permits to allow for expanded flows. The two VPDES permitted discharges are Burlington Industries, Clarksville Finishing Plant (VPDES No. VA0001651), which discharges to John H. Kerr Reservoir, and the Town of Boydton Municipal Sewage Treatment Plant (VPDES No. VA0020168), which discharges to Coleman Creek.

Water quality management plans identify water quality problems, consider alternative solutions, and recommend pollution control measures needed to attain or maintain water quality standards. The existing Roanoke River Basin WQMP states, "As more data becomes available, alternative methods of analysis can be considered, and in future updates of this plan, the appropriate action item(s) can be amended to reflect the use of these other equations and methods of

Notices of Intended Regulatory Action

analysis." This amendment addresses the results of two such analyses. The affected water body segments are John H. Kerr Reservoir in the vicinity of the Town of Clarksville, and Coleman Creek.

John H. Kerr Reservoir segment: This segment was originally modeled in 1976 using the Tennessee Valley Authority (TVA) Flat Water Equation. A new mathematical water quality model (Lung, et al, January 1994), constructed with field-collected water quality data and the computer code published by the US Environmental Protection Agency as EUTRO5, predicts that the biochemical oxygen demand (BOD) loading rate requested by Burlington Industries, combined with the existing permitted BOD loading rate for the Town of Clarksville, will have minimal impact on the dissolved oxygen balance of the waters of Kerr Reservoir.

Coleman Creek segment: This segment was originally modeled in 1976 using the TVA Flat Water Equation. In 1978, a Streeter-Phelps mathematical model characteristic of Coleman Creek was developed by conducting three intensive stream surveys (State Water Control Board, January 1978). The results of this mathematical model were adopted into the Roanoke River WQMP on December 6, 1982. In 1995, the Town of Boydton requested an increase in discharge from 0.145 mgd to 0.360 mgd. Based on this request, the 1978 Streeter-Phelps mathematical model was revised to reflect the requested discharge increase (Department of Environmental Quality, March 1995). Based on the revised model, wasteload allocations were developed for the 0.360 mgd discharge which are predicted by the model to maintain the dissolved oxygen water quality standard in Coleman Creek.

Statement of Need for Regulatory Action

Both discharges are in Mecklenburg County in Water Quality Management Area VII as defined in the Roanoke River WQMP, and are currently limited by waste load allocations in the WQMP. The Roanoke River Basin Water Quality Management Plan was originally adopted by the State Water Control Board December 9, 1976, and most recently amended February 12, 1992. The Burlington Industries - Clarksville waste load allocation in the WQMP is combined with the waste load allocation for the Town of Clarksville Municipal STP (VPDES No. VA0020168). Regulatory action, in the form of an amendment to the existing Roanoke River WQMP, is necessary because the State Water Control Law requires that VPDES permits be consistent with approved water quality management plans. Any time the allowable discharge in a VPDES permit which is limited by a waste load allocation in a WQMP is changed, the WQMP must be amended to reflect the new waste load allocation.

Description of Alternatives

The following two alternatives were considered in development of the proposed amendment to the Roanoke River Basin Water Quality Management Plan.

1. Deregulate the existing Roanoke River Basin WQMP.

This alternative is not recommended at this time for these discharges. In the Executive Order 15 (94) review of the Water Quality Management Plan regulations, the Department of Environmental Quality (DEQ) proposed the repeal of 17 existing water quality management plans and replacement of the plans with one nonregulatory statewide plan. This proposal included the Roanoke River Basin WQMP. Deregulation and replacement of the current regulatory WQMP would eliminate the need for this proposed WQMP amendment. However, deregulation of the WQMP will not be completed in time to enable the affected discharges to increase loadings and remain in compliance with their VPDES permits.

2. Maintain existing waste load allocations (No Action Alternative).

This alternative is not recommended. Receiving water quality modeling, based on data collected after adoption of the existing WQMP, predicts that the proposed Burlington Industries waste load allocation will have minimal impact on the receiving water body and that the Town of Boydton waste load allocations are adequate to maintain water quality in the affected receiving stream. It is clear that the intent of the WQMP is to incorporate the results of analyses based on data made available after the adoption of the original WQMP. Additionally, because VPDES permitted discharges are required to be in conformance with WQMPs, unless the WQMP waste load allocations are changed, increased loadings requested by the permittees will not be permitted.

Request for Comments on the Intended Regulatory Action

The Department of Environmental Quality invites comments on this intended amendment to the Roanoke River Basin Water Quality Management Plan, including any other alternatives. Comments may be submitted to Mr. Jon van Soestbergen at the following address:

Jon van Soestbergen, P.E.
Water Division, Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, VA 23060

Request for Comments on the Costs and Benefits of the Alternatives

The Department of Environmental Quality invites comments on the costs and benefits of the stated alternatives or any other alternatives provided. Comments may be submitted to Mr. Jon van Soestbergen.

Statement of Intent to Hold Public Hearing

The Department of Environmental Quality intends to hold a public meeting on this proposed amendment after it is published in the Virginia Register of Regulations to receive views and comments and to answer questions of the public.

Notices of Intended Regulatory Action

Statement Inviting Comment on Use of Participatory Approach

The Department of Environmental Quality invites comments on whether the participatory approach should be used in the development of the proposed amendment. Comments may be submitted to Mr. Jon van Soestbergen.

Statutory Authority: § 62.1-44.15(13) of the Code of Virginia.

Public comments may be submitted until July 15, 1997.

Contact: Jon van Soestbergen, P.E., Environmental Engineer Senior, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 527-5043 or FAX (804) 527-5106.

VA.R. Doc. No. R97-536; Filed May 21, 1997, 10:58 a.m.

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to consider amending regulations entitled: **9 VAC 25-440-10 et seq. Upper Roanoke Subarea Water Quality Management Plan**. The purpose of the proposed action is to amend the regulation to change the waste load allocations for two segments of the Roanoke River. The State Water Control Board adopted the plan December 9, 1991. The plan became effective February 12, 1992. Water quality management plans identify water quality problems, consider alternative solutions and recommend pollution control measures needed to attain or maintain water quality standards. The proposed amendment addresses changed conditions in two segments of the Roanoke (Staunton) River. The first is in Campbell County in the Altavista area. New modeling data show an increased total wasteload assimilative capacity in the Altavista segment greater than that previously identified in the plan. The second is in Roanoke, VA in the Roanoke Valley area. Current biological oxygen demand (BOD) data indicate sustainable treatment capacities in the Roanoke Valley segment. The Upper Roanoke River Subarea Water Quality Management Plan (WQMP) states that "... as more data become available, alternative methods of analysis should be considered and applied..." Two dischargers have requested revised wasteload allocations in their Virginia Pollution Discharge Elimination System (VPDES) permits to allow for expanded discharge flows.

Description of the Intent of the Regulatory Action

The following segments of the Roanoke (Staunton) River are proposed to be amended:

Altavista segment: The proposed amendment will maintain the existing wasteload assimilative capacity at secondary treatment levels in a 10-mile segment of the Roanoke (Staunton) River in Altavista. The segment was originally modeled in 1976 using the TVA Flat Water Equation. The new sophisticated mathematical STREAM Model (Lung, 1987; US EPA 1992) for this segment of the Roanoke

(Staunton) River predicts secondary treatment levels with Antidegradation applied will maintain existing water quality. Amending the plan to reflect the use of a more sophisticated mathematical model complies with the mandates established in federal and state law and the Upper Roanoke River Subarea Water Quality Management Plan. One discharge permitted under the VPDES is affected by the proposed WQMP amendment for this segment. That discharge is the Town of Altavista Sewage Treatment Plant (VPDES No. VA0020451). The sewage treatment plant expansion is complete with discharge at the existing facility.

Roanoke Valley segment: One discharge permitted under the VPDES is affected by the proposed WQMP amendment for this segment. That discharge is the tertiary Roanoke City Regional Sewage Treatment Plant (VPDES No. VA0025020). The plant reached hydraulic capacity in 1985. The plant maintains a high degree of treatment for five day biological oxygen demand (BOD₅), 5 mg/l of which is approximately normal stream background level. Planned expansion of the sewage treatment plant to 62.0 million gallons per day (mgd) will maintain this high degree of treatment. The current Upper Roanoke River Subarea Water Quality Management Plan established a BOD₅ wasteload allocation (WLA) of 757.40 kilograms per day (kg/d) to the facility with a total maximum daily load (TMDL) of 927.72 kg/d. The segment was originally modeled in 1976 using the TVA Flat Water Equation.

Greater BOD₅ loadings are a result of this expanded design flow. The amendment will recognize this higher BOD₅ loading by increasing the WLA to 1173 kg/d and establish the TMDL at 1352 kg/d. The plant can operate at the design flow of 62.0 mgd and maintain existing water quality because of the effluent's low oxygen demand rate compared to the instream or background BOD₅.

A monitoring program designed to signal any water quality degradation is a requirement of this amendment to ensure that water quality standards are maintained. The monitoring program to be conducted by the permittee should be designed to monitor the Roanoke River especially during critical conditions. Collected data should also support a more sophisticated stream model to address variables not addressed in the TVA Flat Water Equation.

Need for Regulatory Action

The Upper Roanoke River Subarea Water Quality Management Plan is an existing regulation. The Town of Altavista and the City of Roanoke have requested changes to the wasteload allocations in their respective Virginia Pollution Discharge Elimination System (VPDES) permits. The changes will enable the facilities to accept higher influent waste water flows. The proposed amendment reflects the use of a new more sophisticated mathematical model with antidegradation applied for a 10-mile segment that includes the Town of Altavista Sewage Treatment Plant. The model indicates secondary treatment levels for the entire 10-mile segment of the Roanoke (Staunton) River will maintain existing water quality. The high degree of treatment provided

Notices of Intended Regulatory Action

by the Roanoke City Regional Sewage Treatment Plant and analysis of effluent Long Term BOD indicates that BOD wasteloads could increase and have minimal impact on dissolved oxygen in the Roanoke River.

Amending the Upper Roanoke River Subarea Water Quality Management Plan increasing BOD₅ wasteloads for both areas will protect existing water quality, ensure beneficial uses of the Roanoke (Staunton) River and sustain the economic well-being of the communities through which it flows. Treating the waste water will contribute to the protection of the health and safety of the citizens of both of these communities and the Commonwealth.

Alternatives Available to Meet the Need

Recommended Alternative I:

Altavista segment:

Amend the Upper Roanoke River Subarea Water Quality Management Plan, specifically VR 680-16-02.1, to reflect the use of the more sophisticated mathematical STREAM Model (Lung, 1987; US EPA 1992) for the Roanoke (Staunton) River segment from approximately the US Bus. 29 Bridge 10 miles downstream, river mile 129.55 to 119.55. Retain the segment's Plan classification as Effluent Limiting with Antidegradation applied for dissolved oxygen requiring secondary treatment levels for dischargers to this segment.

Roanoke Valley segment:

Amend the Upper Roanoke River Subarea Water Quality Management Plan to reflect a WLA of 1173 kg/d and TMDL of 1352 kg/d BOD₅ for the existing segment and require the development of a monitoring program to ensure maintenance of water quality. Retain the Plan classification of the existing segment as Water Quality Limited requiring greater than secondary treatment levels for dischargers to the segment.

Other Alternatives

Alternative II:

Deregulate all water quality management plans for the entire state.

Reason Alternative II was not chosen: Executive Order 15 (94) required the review of Water Quality Management Plan (WQMP) regulations. The Department of Environmental Quality (DEQ) proposed the repeal of 17 existing water quality management plans and replacement of the plans with one non-regulatory statewide plan. This proposal included the Upper Roanoke River Subarea Water Quality Management Plan. The process for deregulating all water quality management plans for the entire state has begun but can not be completed prior to the issuance of permits in either the Altavista or Roanoke Valley segments. Permits can not be issued that are not consistent with water quality management plans (9 VAC 25-31-50 C7). Deregulation has been delayed beyond the time frame for issuance of permits in the segment.

Alternative III:

Construct separate sewage treatment facilities.

Reason Alternative III was not chosen: Construction of new facilities on other streams in either the Altavista or Roanoke Valley areas is not consistent with water quality management plans requiring regional approaches to solve environmental problems. Construction of new facilities would also result in abandonment of some existing community infrastructure investment. In addition, new facilities in the Roanoke Valley would have to meet greater than secondary treatment levels. Most streams in the Valley are designated by the Upper Roanoke River Subarea Water Quality Management Plan as Water Quality Limited.

Request for Comments on the Intended Regulatory Action

The Department of Environmental Quality invites comments on this intended amendment to the Upper Roanoke River Subarea Water Quality Management Plan including any other alternatives. Comments may be submitted to Dr. Michael J. Scanlan at the following address:

Dr. Michael J. Scanlan, Ph.D.
West Central Regional Office
Department of Environmental Quality
3019 Peters Creek Road
Roanoke, VA 24019

Request for Comments on the Costs and Benefits of the Alternatives

The Department of Environmental Quality invites comments on costs and benefits of the stated alternatives or any other alternatives provided. Comments may be submitted to Dr. Michael J. Scanlan.

Intent to Hold Public Meetings on the Proposed Regulatory Action

The Department of Environmental Quality intends to hold a public meeting on the proposed amendment after it is published in the Virginia Register of Regulations. The intent of the public meeting is to explain the proposed amendment, answer questions of the public and to allow public comment on the proposed amendment.

Statement Inviting Comment on Use of Participatory Approach

The Department of Environmental Quality invites comments on whether the participatory approach should be used in the development of the proposed amendment. Comments may be submitted to Dr. Michael J. Scanlan.

Statutory Authority: § 62.1-44.15(13) of the Code of Virginia.

Public comments may be submitted until July 15, 1997.

Contact: Michael J. Scanlan, Ph.D., Environmental Manager, Field, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (540) 562-6723 or FAX (540) 562-6729.

VA.R. Doc. No. R97-535; Filed May 21, 1997, 10:58 a.m.

PUBLIC COMMENT PERIODS - PROPOSED REGULATIONS



PUBLIC COMMENT PERIODS REGARDING STATE AGENCY REGULATIONS

Effective July 1, 1995, publication of notices of public comment periods in a newspaper of general circulation in the state capital is no longer required by the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia). Chapter 717 of the 1995 Acts of Assembly eliminated the newspaper publication requirement from the Administrative Process Act. In *The Virginia Register of Regulations*, the Registrar of Regulations has developed this section entitled "Public Comment Periods - Proposed Regulations" to give notice of public comment periods and public hearings to be held on proposed regulations. The notice will be published once at the same time the proposed regulation is published in the Proposed Regulations section of the *Virginia Register*. The notice will continue to be carried in the Calendar of Events section of the *Virginia Register* until the public comment period and public hearing date have passed.

Notice is given in compliance with § 9-6.14:7.1 of the Code of Virginia that the following public hearings and public comment periods regarding proposed state agency regulations are set to afford the public an opportunity to express their views.

STATE MILK COMMISSION

June 18, 1997 - 11 a.m. – Public Hearing
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

June 18, 1997 - 11 a.m. – Public Hearing
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

August 8, 1997 - Public comments may be submitted until this date.

August 8, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to repeal regulations entitled: **2 VAC 15-10-10 et seq. Public Participation Guidelines** and adopt regulations entitled: **2 VAC 15-11-10 et seq. Public Participation Guidelines**. The amendments reflect revisions and restatements of prior regulations and agency policy to conform to the Virginia Register Form, Style, and Procedure Manual. The revisions define, clarify, and standardize regulation terms. It also more clearly designates the purpose of the regulation, incorporates procedures for the composition and maintenance of mailing lists of interested parties and the distribution of the same. The amendments include procedures to petition for rulemaking; notices of intended regulatory action; notice of public comment, notices of meetings, and public hearings; and periodic review of regulations. Procedures for the formation and use of ad hoc committees are also included.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to amend regulations entitled: **2 VAC 15-20-10 et seq. Regulations for the Control, Regulation and Supervision of Virginia Milk Industry**. The proposed amendments will improve the form, style and language through restatements of existing regulations and policy and improve, reduce or eliminate certain regulatory burdens on the Virginia milk industry.

Statutory Authority: §§ 3.1-340 and 9-6.14:7.1 of the Code of Virginia.

Statutory Authority: § 3.1-340 of the Code of Virginia.

Contact: Edward C. Wilson, Deputy Administrator, State Milk Commission, 200 N. Ninth St., Suite 1015, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, or (804) 786-2013/TDD ☎

Contact: Edward C. Wilson, Deputy Administrator, State Milk Commission, 200 N. Ninth St., Suite 1015, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, or (804) 786-2013/TDD ☎

STATE WATER CONTROL BOARD

July 15, 1997 - 2 p.m. – Public Hearing
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Training Room, Roanoke, Virginia.

July 16, 1997 - 10 a.m. – Public Hearing
Department of Environmental Quality, Valley Regional Office Training Room, 4411 Early Road, Training Room, Harrisonburg, Virginia.

July 17, 1997 - 10 a.m. – Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Richmond, Virginia.

Public Comment Periods - Proposed Regulations

August 11, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-195-10 et seq. General VPDES Permit for Concentrated Aquatic Animal Production Facilities.** The purpose of the proposed regulation is to adopt a general VPDES permit which will establish limits for the discharge of wastewater associated with concentrated aquatic animal production facilities.

Question and Answer Period: A question and answer period will be held one-half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

Accessibility to Persons with Disabilities: The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Michael B. Gregory at the information contact address. Persons needing interpreter services for the deaf should notify Mr. Gregory no later than July 1, 1997.

Request for Comments: The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit, and comments regarding the costs and benefits of the proposal or any other alternatives. Written comments on the proposed issuance of the permit and on the proposed regulation must be received no later than 4 p.m. on August 11, 1997, and should be submitted to Mr. Gregory. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

Other Information: The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Gregory at the information contact address.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065 or FAX (804) 698-4032.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates proposed new text.
Language which has been stricken indicates proposed text for deletion.

MILK COMMISSION

Title of Regulation: 2 VAC 15-10-10 et seq. Public Participation Guidelines (REPEALING).

Title of Regulation: 2 VAC 15-11-10 et seq. Public Participation Guidelines.

Statutory Authority: §§ 3.1-430 and 9-6.14:7.1 of the Code of Virginia.

Public Hearing Date: June 18, 1997 - 11 a.m.

Public comments may be submitted until August 8, 1997.
(See Calendar of Events section for additional information)

Basis: This regulation is issued under the authority of § 3.1-430 of the Code of Virginia. Pursuant to this section, the commission is vested with the power to promulgate regulations to supervise, regulate and control the production, transportation, processing, storage, delivery and sale of milk for consumption within the state.

The commission reviewed its regulations pursuant to Executive Order 15 (94) which resulted in an identification of the necessity for revision of this regulation. The amendments made to the regulation are within the authority granted to the commission in this area.

The regulation was initially adopted by the commission on July 18, 1984, to be effective September 1, 1984. The revised regulation was developed by a citizen and industry ad hoc committee established by the commission for the purposes of reviewing and amending certain portions of the regulations identified in the agency regulatory review process. The regulation has been revised and restated to conform to The Virginia Register Form, Style and Procedure Manual.

Purpose: The regulation sets forth guidance relating to State Milk Commission procedures for public participation in the regulatory development and promulgation process.

The regulation is applicable to all regulatory development and amendment not specifically exempted from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).

The new amended regulation will enable the public to participate fully in the promulgation process of Milk Commission regulations which promote and protect the public welfare by ensuring an adequate supply of a highly perishable vital food source at reasonable prices.

Substance: The amendments to the regulation reflect revisions and restatements of prior regulations to conform to The Virginia Register Form, Style and Procedure Manual.

2 VAC 15-11-10 defines, clarifies and standardizes terms used in the regulation.

2 VAC 15-11-20 designates the purpose of the regulation.

2 VAC 15-11-30 incorporates the procedures for the composition and maintenance of mailing lists of interested parties for participation in the regulatory development process and the distribution of documents relating to same.

2 VAC 15-11-40 incorporates the procedures for public participation and includes specific policy to petition for rule making, notices of intended regulatory action, notices of public comment period, notices of meetings, public hearings, and review of regulations.

2 VAC 15-11-50 incorporates the procedures by which the commission will include ad hoc committees.

Issues: Regulatory provisions should be reviewed periodically and revised, as appropriate, to reflect current policy relative to current issues. This amended regulation, as drafted by an ad hoc committee comprised of private citizens, licensed distributors, cooperatives, and dairy farmers, states the agency's current policy with respect to regulation development and promulgation process. The primary advantage of implementing the regulation to the public is that the revisions define the process of public participation in regulatory development, and standardize the style, form and format to provide consistency and uniformity, in general, with other state agencies. The primary advantage to the agency and state is that there is measurable consistency in the processes followed in regulatory development.

There are no known disadvantages for the public or the agency in implementing the amended regulation.

Estimated Impact: Projected costs to the agency in implementing this regulation will be minimal. The costs associated with the development and revision of the regulation were minimal. Future costs associated with the regulation will not significantly impact the agency budget as they will be limited to distribution expenses of final promulgated regulations. There will be no additional direct operational costs to the agency as existing staff will administer the amended regulation since it does not significantly differ from existing regulation in scope.

The administrative expenses incurred by the State Milk Commission will be funded from general operating revenues.

This regulation will affect 1,031 dairy producers, 111 licensed distributors, 9 dairy cooperatives, all retail distributors marketing fluid milk products, all Virginia consumers, and the general public who may be interested in regulation development by the State Milk Commission.

Proposed Regulations

It is anticipated regulated and other interested parties will incur no additional costs due to this regulatory revision. No particular locality will be affected more than another as a result of these amendments.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the proposed regulation. The proposed regulation amends current procedures for public participation in VSMC rulemaking. The proposed amendments are largely clarifying in nature and serve to make the regulation and the VSMC rule-making process more reflective of current Administrative Process Act requirements.

Estimated economic impact. Although the proposed regulation is expected to facilitate public participation in VSMC rulemaking, it is not expected to have economic consequences. As a result, the proposed regulation is not anticipated to have an economic impact.

Businesses and entities particularly affected. All business, or other entities, affected by VSMC rulemaking would be affected by this proposed regulation.

Localities particularly affected. No localities are particularly affected by the proposed regulation.

Projected impact on employment. The proposed regulation is not expected to have a significant effect on employment.

Effects on the use and value of private property. The proposed regulation is not expected to have a significant effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The State Milk Commission concurs with the economic analysis of the Public Participation Guidelines conducted by the Department of Planning and Budget.

Summary:

The Public Participation Guidelines regulation provide the means in which the public may participate in the regulatory development and promulgation process of the State Milk Commission.

The existing guidelines are proposed to be repealed and new guidelines adopted.

The new regulation defines, clarifies, and standardizes regulation terms. It also more clearly designates the purpose of the regulation and incorporates procedures for the composition and maintenance of mailing lists of interested parties and the distribution of same. The regulation includes procedures to petition for rule making; notices of intended regulatory action; notice of public comment, notices of meetings, and public hearings; and periodic review of regulations. Procedures for the formation and use of ad hoc committees are also included.

CHAPTER 11.

PUBLIC PARTICIPATION GUIDELINES.

2 VAC 15-11-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Administrative Process Act" means Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

"Agency" means the State Milk Commission.

"Approving authority" means the commissioners of the State Milk Commission.

"Administrator" means the Administrator of the State Milk Commission or his designee.

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

"Public hearing" means an informational proceeding, held in conjunction with the Notice of Public Comment and similar to that provided for in § 9-6.14:7.1 of the Administrative Process Act, to give persons an opportunity to submit views and data relative to regulations on which a decision of the approving authority is pending.

2 VAC 15-11-20. Statement of purpose.

This regulation provides guidelines for public involvement in developing and promulgating regulations of the State Milk Commission. The guidelines do not apply to regulations exempted or excluded by the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

2 VAC 15-11-30. Composition of the distribution list.

A. The approving authority, at its discretion, shall maintain a list of any person it believes will be interested in participating in the promulgation of regulations.

B. The agency shall maintain a list of persons who have requested notification of the formation and promulgation of regulations.

C. The agency shall periodically update this list through direct contact with addressees.

2 VAC 15-11-40. *Distribution of documents.*

A. Persons on the list described in 2 VAC 15-11-30 shall be sent the following documents related to the promulgation of regulations:

1. A Notice of Intended Regulatory Action.
2. A Notice of Comment Period.
3. A copy of any final regulation adopted by the approving authority.
4. A notice soliciting comment on a final regulation when the regulatory process has been extended.

Distributions shall be done as economically and expeditiously as possible.

B. The failure to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulation.

2 VAC 15-11-50. *Petition for rulemaking.*

A. As provided in § 9-6.14:7.1 of the Code of Virginia, any person may petition the approving authority to develop a new regulation or amend an existing regulation.

B. A petition shall include but need not be limited to the following:

1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.
2. The number and title of the regulation to be addressed.
3. The petitioner's interest in the proposed action.
4. A description of the need and justification for the proposed development, amendment or repeal of the regulation.
5. A recommended addition, deletion, or amendment to the regulation.
6. A statement of impact on the petitioner and other affected persons.
7. Any applicable supporting documents.

C. The approving authority shall receive, consider and respond to a petition within 180 days.

D. The approving authority shall not be prohibited from receiving information from the public and proceeding on its own motion for rule making.

2 VAC 15-11-60. *Notice of Intended Regulatory Action.*

A. The Notice of Intended Regulatory Action (NOIRA) shall state the purpose of the action and provide a brief statement of the need or problem the proposed action will address.

B. The NOIRA shall state when and where a public hearing will be scheduled.

2 VAC 15-11-70. *Notice of Comment Period.*

A. The Notice of Public Comment (NOPC) shall state that copies of the proposed regulation are available from the agency and may be requested from the contact person specified in the NOPC.

B. The NOPC shall make provision for oral or written submittals on the proposed regulation. The impact on regulated persons, the public, and the cost of compliance with the proposed regulation shall be included in the submittal returns.

2 VAC 15-11-80. *Notice of Meeting.*

A. At any meeting of the approving authority or committee at which the formation or adoption of regulations is anticipated, the subject shall be described in the Notice of Meeting and transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations.

B. If the approving authority anticipates action on a regulation exempted by the Administrative Process Act under § 9-6.14:4.1 of the Code of Virginia, the Notice of Meeting shall state that a copy of the regulation is available upon request at least two days prior to the meeting. A copy of the regulation shall be made available to the public attending such meeting.

2 VAC 15-11-90. *Public hearings on regulations.*

A. The approving authority shall conduct a public hearing on regulations subject to the provisions of § 9-6.14:7.1 of the Administrative Process Act during the 60-day comment period following the publication of a proposed regulation or amendment to an existing regulation. Procedures for conducting such hearings will be the same as those provided in 2 VAC 15-20-120.

B. The approving authority shall conduct a public hearing on regulations exempted from the Administrative Process Act. Procedures for conducting these hearings are provided in 2 VAC 15-20-120.

2 VAC 15-11-100. *Review of regulations.*

A. At least once every three years, the approving authority shall conduct a public hearing to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance.

B. This hearing may be conducted separately or in conjunction with another public hearing.

C. Notice of the hearing shall be transmitted to the Registrar of Regulations for inclusion in The Virginia Register of Regulations and shall be sent to the distribution list identified in 2 VAC 15-11-30.

2 VAC 15-11-110. *Appointment of ad hoc committee.*

The approving authority may appoint an ad hoc committee to assist in the review and development of regulations for the commission. The ad hoc committee may be comprised of any individual who the approving authority believes can offer

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constructive input or any individuals who have expressed an interest in regulatory promulgation.

2 VAC 15-11-120. Limitation of service.

A. An ad hoc committee appointed by the approving authority may be dissolved when there is no response to the Notice of Intended Regulatory Action.

B. The ad hoc committee shall remain in existence no longer than 12 months from its initial appointment unless the approving authority determines that a need for the committee continues to exist beyond the original appointment. The approving authority shall then set a specific term for the committee of not more than an additional 12 months.

VA.R. Doc. No. R97-522; Filed May 16, 1997, 9:56 a.m.

Title of Regulation: 2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry (amending 2 VAC 15-20-10, 2 VAC 15-20-30, 2 VAC 15-20-50, 2 VAC 15-20-60, 2 VAC 15-20-90, 2 VAC 15-20-100, 2 VAC 15-20-110, 2 VAC 15-20-120 and 2 VAC 15-20-130; adding 2 VAC 15-20-121 and 2 VAC 15-20-125; repealing 2 VAC 15-20-20).

Statutory Authority: § 3.1-340 of the Code of Virginia.

Public Hearing Date: June 18, 1997 - 11 a.m.

Public comments may be submitted until August 8, 1997.
(See Calendar of Events section
for additional information)

Basis: This regulation is issued under the authority of § 3.1-430 of the Code of Virginia. Pursuant to this section, the commission is vested with the power to promulgate regulations to supervise, regulate and control the production, transportation, processing, storage, delivery and sale of milk for consumption within the state.

The commission reviewed its regulations pursuant to Executive Order 15 (94) which resulted in an identification of the necessity for revision of this regulation. The amendments made to the regulation are within the authority granted to the commission in this area.

The Milk Commission was established in 1934 and has promulgated various regulations since then. The revised regulation was developed by a citizen and industry ad hoc committee established by the commission for the purposes of reviewing and amending certain portions of the regulations identified in the agency regulatory review process. The regulation has been revised and restated to conform to the Virginia Register Form, Style and Procedure Manual.

Purpose: The regulation sets forth guidance relating to State Milk Commission regulation, supervision and control of the dairy industry in Virginia to provide for an adequate supply of fluid milk to meet the demand of Virginia citizens, at reasonable prices, and provide for the orderly marketing of milk within Virginia.

The regulation is applicable to all regulations not specifically exempted from the provisions of the Administrative Process Act (§ 9-6.14:1 of the Code of Virginia).

Substance: The amendments to the regulation reflect revisions and restatements of prior regulations to conform to the Virginia Register Form, Style and Procedure Manual. They also reflect substantive changes to improve, reduce or eliminate certain regulatory requirements on the Virginia milk industry.

2 VAC 15-20-10 defines, clarifies and standardizes terms used in the regulation. The amendments reflect clear, concise, and consistent definitions and new definitions that reflect current industry technology and terms.

2 VAC 15-20-20 incorporates a restatement of the purpose of the regulation.

2 VAC 15-20-30 establishes the applicability of the regulation and denotes the specific areas of Virginia in which the regulations do not apply.

2 VAC 15-20-50 incorporates the requirements for delivery and acceptance of producer milk by a regulated processing general distributor. The amendments do not reflect any changes to content of the previous regulation.

2 VAC 15-20-60 incorporates the classification and requirements of distributor licenses. This section provides for procedures to immediately obtain temporary authority to operate as a distributor licensee. The section also reduces the number of classifications of licenses from five to four. This reduction also eliminates marketing restrictions imposed on licensees in the previous classifications of subdistributor and nonprocessing general distributors.

2 VAC 15-20-90 establishes the records and report requirements of licensed distributors and cooperative associations of producers. The amendments provide that a licensee may file their report in a number of optional methods in order to reduce redundancy and cost in report preparation. Cooperative associations of producers will now be officially required to submit data concerning deliveries and billings for those deliveries. This information has been substantially provided to the agency voluntarily for a number of years.

2 VAC 15-20-100 establishes the rules of practice for licenses. The revisions eliminate restrictions on paid milk carton advertising. The revisions also convert the applicable interest rate charged on installment sale of milk handling equipment from a fixed rate to the current prime rate at time of sale. A provision has been added which allows for the supplying of milk handling equipment when used for charitable purposes. These amendments also include the cost of delivery in determining cost of packaged fluid milk products purchased for resale. Presumptive delivery cost percentages may now be adjusted each year by the percentage of change in the weighted average case delivery cost as determined through annual cost analysis. The revisions also provide equity in the restriction of limiting purchases made by retail licensees of fluid milk products from only licensed distributors to include the same limitation

to wholesale distributors. The revised regulation now exempts all schools, local governments and state government from the provisions of below cost selling. Wholesale distributors will be permitted to meet lawful competitive prices below their own costs with written notification to the commission. Retail distributors will be permitted to sell code-dated fluid milk at less than cost to dispose of distressed merchandise. The amendments also include specific less restrictive rules for coupons involving fluid milk products to allow couponing when it does not circumvent below cost selling provisions of the regulation. Also included in the amendments is a provision for allowing distributors to donate milk.

2 VAC 15-20-110 establishes the rules for assessments.

2 VAC 15-20-120 establishes the rules for notification and procedures of public hearings. Amendments provide for the duties and responsibilities of a hearing clerk and for the inclusion of participants and other interested parties to become a party to the proceedings and to conduct cross examination of witnesses.

2 VAC 15-20-130 provides for the repeal of existing regulations, previous rules, and orders which conflict with these regulations upon the effective date of these regulations.

Issues: Regulatory provisions should be reviewed periodically and revised, as appropriate, to reflect current policy relative to current issues. This amended regulation, as drafted by an ad hoc committee comprised of private citizens, licensed distributors, cooperatives, and dairy farmers, states the agency's current policy with respect to regulation and control of the dairy industry in Virginia. The primary advantage of implementing the regulation to the public is that the revised regulations define the process of regulation, supervision, and control of the dairy industry to ensure the citizens of the Commonwealth a constant and reasonably priced supply of milk. This regulation is essential to protect the health of the public because milk is considered a food source vital to the well-being of individuals in their daily diets. Regulation of the dairy industry is considered critical to the economic prosperity of the Virginia economic community and Virginia as a whole in that it provides for orderly marketing of a highly perishable food source.

There are no known disadvantages for the public or the agency in implementing the amended regulation.

Estimated Impact: Projected costs to the agency in implementing this regulation will be minimal. The costs associated with the development and revision of the regulation was minimal. Future costs associated with the regulation will not significantly impact the agency budget as they will be limited to distribution expenses of final promulgated regulations. There will be no additional direct operational costs to the agency as existing staff will administer the amended regulation since it does not significantly differ from existing regulation in scope.

The administrative expenses incurred by the State Milk Commission will be funded from general operating revenues.

This regulation will affect 1,031 dairy producers, 111 licensed distributors, 9 dairy cooperatives, all retail distributors marketing fluid milk products, all Virginia consumers, and the general public.

It is anticipated regulated and other interested parties will incur no additional costs due to this regulatory revision. In fact, due to the lessening or elimination of some restrictions there may be a reduction of costs. No particular locality will be affected more than another as a result of these amendments.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic effects.

Summary of the proposed regulation. The proposed regulation amends current regulations governing control and supervision of the milk industry in Virginia. These regulations: detail those areas of the Commonwealth that are exempt from the regulation; establish delivery and acceptance requirements (e.g., producers must deliver their base amount of milk to distributors, if it is produced, and distributors must accept that base amount); establish procedures for licensing (e.g., listing the reasons why a license may be refused or revoked, such as, "the licensee is not qualified to properly conduct the business"); specify reporting and record keeping requirements (e.g., distributors must make a monthly report to the commission which "specifies all receipts and utilization of milk" and must maintain records on the "amount, source, grade, butterfat test and paid price for all milk and cream received from all sources"); provide for rules of practice (e.g., with certain exemptions, distributors are prohibited from selling milk below "presumed cost" as defined by the commission); establish procedures for assessments levied against licensees for support of the commission; and establish procedures for public hearings.

The most significant amendments contained in the proposed regulation are as follows:

- A new provision would allow for temporary licensing;
- The license classification "subdistributor" would be eliminated;

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- Licensees would have the option of filing reports with the commission in a variety of different formats;
- Cooperative associations of producers would be required to file separate monthly reports with the commission regarding daily deliveries and all billings;
- Restrictions on paid milk carton advertising would be eliminated;
- Several new exemptions would be established for "below cost selling" (i.e., sales to governments and schools, charitable donations, the sale of distressed merchandise, and meeting "a lawful competitive price below [the distributor's] cost"); and
- Hearing procedures would be revised to allow interested parties to become a party to the proceedings and to "conduct cross examination of witnesses upon written request."

Estimated economic impact. The economic consequences of the proposed amendments listed above can be grouped into two main categories: regulatory compliance costs and market restrictions.

Regulatory Compliance Costs

Three of the proposed amendments to the current regulation are likely to, either directly or indirectly, cause a reduction in the compliance costs borne by the regulated industry. The new provisions regarding temporary licensing and the removal of restrictions on paid milk carton advertising both increase the latitude firms have in making routine business decisions and, as a result, reduce the costs the regulation imposes on their bottom line. Similarly, allowing firms to select the format they use for filing reports with the commission from a menu of options enables them to pick the format that is best for them, thereby reducing compliance costs.

The proposed amendment that would require cooperative associations of producers to file monthly reports on daily deliveries and all billings has the potential to impose additional compliance costs on those entities. According to information provided by the Milk Commission, many cooperative associations of producers already provide this information voluntarily, however. Therefore, from a practical perspective the incremental costs generated by this proposed new requirement could be minimal.

Market Restrictions

Currently, firms are prohibited from selling below their "presumed cost" as established by the Milk Commission unless a lower cost "can be justified to the commission's satisfaction by the licensee" where "the licensee shall have the burden of proof on all issues." Such prohibitions have traditionally been employed by regulators to ensure "competition," where competition is defined statically (i.e., as the number of firms participating in a market) rather than dynamically (i.e., as rivalrous behavior, such as price competition). The proposed regulation contains several new

provisions which exempt firms from the prohibition against "below cost selling" in certain circumstances. These circumstances are: sales to governments or schools, charitable donations, the sale of distressed merchandise, and to meet "a lawful competitive price."

These new provisions will have two main economic consequences. In the short-run, because they permit a limited increase in the range of circumstances in which firms can engage in price competition, they will increase the likelihood that certain consumers (i.e., governments and schools) will reap the benefits of market competition through reduced prices. In the long-run, because, at least in certain areas, firms will be able to use price competition to increase market share, they presumably will have an increased incentive to employ new cost-reducing technologies. This incentive is largely absent in the current regulatory framework and could, conceivably, place some downward pressure on future consumer prices.

Businesses and entities particularly affected. The proposed regulation would particularly affect the 1,031 dairy producers, 111 distributors, and 9 dairy cooperatives that fall under the current regulation, all retail distributors of milk, and all milk consumers in the Commonwealth.

Localities particularly affected. No localities are particularly affected by the proposed regulation.

Projected impact on employment. The proposed regulation is not anticipated to have a significant effect on employment.

Effects on the use and value of private property. The proposed regulation is not anticipated to have a significant effect on the use and value of private property.

Summary of analysis. DPB anticipates that the proposed amendments to the current regulation governing the regulation and supervision of the milk industry will have two primary economic effects: (i) a potential modest net decrease in the compliance costs borne by regulated firms and (ii) a potential limited increase in the circumstances in which firms will be allowed to engage in price competition and, thereby, a potential decrease in the prices faced by some consumers, principally governments and schools.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The State Milk Commission concurs with the economic analysis of the proposed regulation, Regulations for the Control and Supervision of Virginia's Milk Industry, 2 VAC 15-20-10 et seq., conducted by the Department of Planning and Budget.

Summary:

The proposed regulations detail those areas of the Commonwealth that are exempt from the regulation, establish delivery and acceptance requirements, establish procedures for licensing, specify reporting and recordkeeping requirements, provide for rules of practice, establish procedures for assessments levied against licensees for support of the commission, and establish procedures for public hearings.

The most significant amendments contained in the proposed regulation are as follows:

1. A new provision allows for temporary licensing;
2. The license classification "subdistributor" is eliminated;
3. Licensees have the option of filing reports with the commission in a variety of different formats;
4. Cooperative associations of producers are required to file separate monthly reports with the commission regarding daily deliveries and all billings;
5. Restrictions on paid milk carton advertising are eliminated;
6. Several new exemptions are established for "below cost selling"; and
7. Hearing procedures are revised to allow interested parties to become a party to the proceedings and to "conduct cross examination of witnesses upon written request."

CHAPTER 20.
 RULES AND REGULATIONS FOR THE CONTROL,
 REGULATION AND SUPERVISION OF THE VIRGINIA'S
 MILK INDUSTRY IN VIRGINIA.

2 VAC 15-20-10. Definitions.

~~Whenever~~ The following words and terms, when used in this chapter, shall have the following meaning unless otherwise expressly stated and unless the context or subject matter clearly indicates otherwise:

"Administrator" means the administrator of the State Milk Commission.

"Affiliate" means any person ~~or subsidiary thereof, who has, either directly or indirectly, actual or legal having control, over a distributor whether by stock ownership or in any other manner.~~

"Aggregated base" means the total base of a cooperative association's members.

"Approving authority" means the commissioners of the State Milk Commission.

~~"Aseptic processing and packaging" means the filling of a commercially sterilized cooled product into presterilized containers, followed by aseptic hermetical sealing, with a presterilized closure, in an atmosphere free from microorganisms.~~

"Assigned daily base" means the lesser of:

1. The monthly pounds of base assigned to a licensed processing general distributor divided by the number of days in the month, or
2. The monthly pounds of Class I allocated to the assigned producer's base deliveries, plus 8.0% divided by the number of days in the month.

"Base" means a specified amount of milk which a dairy farmer shall supply periodically and which a distributor shall purchase. Base may be expressed in terms of whole milk or the components of whole milk.

"Base adjusting period" means that time period, specified by regulation, which is used to compare a licensed producer's average monthly production of ~~merchtable~~ marketable milk during that period to his established base.

"Base deliveries" means the amount of milk delivered by a group of base holding dairy farmers which is equal to the bases assigned or the actual deliveries, whichever is less.

"Base establishing period" means the number of ~~delivery periods~~ months, specified by regulation, used to determine the productive capacity of a new producer for the purpose of allocating base.

"Books and records" means ~~books, records, accounts, contracts, memoranda, documents, papers, correspondence or other~~ all data, however recorded, pertaining to the business of the person in question.

"Class I" means fluid milk products sold for consumption in approving authority controlled markets or to licensed distributors which sell these products in such markets. Class I products include whole milk, low-fat milk, nonfat milk, flavored milk and buttermilk.

"Class I-A" means products which meet the requirements for Class I fluid milk products but are sold outside of approving authority controlled markets.

"Class II" means products which are not typically fluid milk products or, if in fluid form, have a butterfat content higher than Class I products. Sales of fluid milk products in bulk form used in commercial cooking and baking processes are classified as Class II products.

"Commission" means the State Milk Commission of Virginia.

"Consumer" means any person, other than a milk distributor who purchases milk for human consumption.

~~"Cooperative association" means any association of producers, incorporated under state law and existing qualifying for exemption under the cooperative laws of the Commonwealth of Virginia or any such organization incorporated and existing under similar laws of other states, which are authorized to do business in Virginia provisions of the "Capper-Volstead Act" (7 USC § 291 et seq.), and which the commission approving authority determines to have full authority for the sale marketing of milk and dairy products of its members.~~

"Daily base" means an amount determined by dividing a producer's established base by the number of days in the applicable month.

"Delivery period" means the calendar month.

~~"Distributor" means any of the following persons engaged in the business of distributing, marketing, or in any manner~~

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~~handling fluid milk, in whole or in part, in fluid form for consumption person selling, marketing, or distributing milk or milk products other than at retail in this the Commonwealth of Virginia:~~

~~1. Persons, irrespective of whether any such persons is a producer: (i) Who pasteurize or bottle or process milk into fluid milk; (ii) Who sell or market fluid milk at wholesale or retail (a) to hotels, restaurants, stores or other establishments for consumption on the premises, (b) to stores or other establishments for resale, or (c) to consumers; and (iii) Who operate stores or other establishments for the sale of fluid milk at retail for consumption off the premises.~~

~~2. Persons wherever located or operating, whether within or without the Commonwealth, who purchase, market or handle milk for resale as fluid milk in the state.~~

~~"Distributor milk" means any skim milk or butterfat contained in milk received from other licensed distributors, except producer general distributors.~~

~~"Filled milk" means any combination of nonmilk fat with skim milk so that the product resembles a fluid milk product.~~

~~"Fluid milk product" means all processed, pasteurized, and packaged milk, skim milk (including concentrated and reconstituted skim milk), butterfat, milk drinks (plain or flavored), cream (except frozen cream), and any mixture of skim milk and cream (except ice milk mix, ice cream mix, frozen dessert mix, and eggnog) in fluid form for sale or consumption with a butterfat content less than 6.0%. It is labeled as milk according to U.S. Food and Drug Administration (FDA) standards.~~

~~"Health authorities" include the State Board of Health, the State Department of Agriculture and Consumer Services and the local health authorities.~~

~~"Licensee" means a licensed milk distributor or milk producer.~~

~~"Market" means any county, city, town or village of the Commonwealth, or two or more counties, cities or towns or villages and surrounding territory a geographic region considered as a place for sales designated by the commission as a natural marketing area approving authority.~~

~~"Market sales area" shall have the same meaning as the word "Market."~~

~~"Milk" means the clean lacteal secretion obtained by the complete milking of one or more from healthy cows properly fed, housed and kept, including milk that is cooled, pasteurized, standardized or otherwise processed with a view the intention of selling it as fluid milk, cream, buttermilk (either cultured or natural buttermilk, and including cultured whole milk in its several trade forms) and skimmed milk; the term excludes the lacteal secretion of one or more dairy animals where lacteal secretion is sold or intended to be sold for any other purpose product.~~

~~"Milk commission base" means the number of pounds established by the commission approving authority in relation to the total average monthly pounds of Class I sales.~~

~~"New producer" means a person who has met the requirements of the health authorities having jurisdiction and has been entered in a base establishing period by the commission.~~

~~"Other source milk" means all skim milk and butterfat contained in or represented by:~~

- ~~1. Receipts (including any Class II products produced in the distributor's own plant in a prior month) which are reprocessed, converted, or combined with a fluid milk product during the month.~~
- ~~2. Receipts from producer general distributors.~~
- ~~3. Receipts from any source other than licensed producers or other licensed distributors.~~

~~"Person" means any person, firm, corporation or association.~~

~~"Processing general distributor" means a person engaged in the business of receiving, pasteurizing, processing, packaging and distributing fluid milk. All processing general distributors shall maintain permits required by appropriate health authorities.~~

~~"Producer" means any person, irrespective of whether any such person is also a distributor, who produces milk for sale as fluid milk product and who has been licensed by the commission approving authority.~~

~~"Producer general distributor" means a distributor who handles pasteurizes, processes, packages and distributes only milk produced by himself and has Class I sales at less than 5.0% of the market or markets in which he operates. All producer general distributors shall maintain permits required by appropriate health authorities.~~

~~"Producer milk" means any skim milk or butterfat contained in raw milk received directly from producers or for the account of producers as defined in this section.~~

~~"Producing unit" means a Grade "A" dairy farm that has been permitted by the authorities having jurisdiction to sell Grade "A" raw milk for pasteurization.~~

~~"Sanitary regulations" include means all laws and ordinances relating to the production, handling, transportation, distribution and sale of milk and, so far as applicable thereto, the state sanitary code and lawful regulations adopted by the dairy and food division, or by the board of health of any county or municipality.~~

~~"Subsidiary" means any person, of or over whom or which a distributor or an affiliate of a distributor has, or several distributors collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner controlled by a distributor, an affiliate, or a group of distributors.~~

"UHT" means a product hermetically sealed in a container and so thermally processed as to render the product free of viable microorganisms, including spores, of public health significance. UHT products as defined in this chapter shall meet the definition for aseptic processing and packaging and do not require refrigeration. Aseptic processing and packaging means the filling of a commercially sterilized cooled product into presterilized containers followed by aseptic hermetical sealing with a presterilized closure in an atmosphere free from microorganisms.

"Ultrapasteurized" means, when used to describe any milk or milk product, milk or milk products thermally processed at a temperature of 280°F (138°C) or hotter for at least two seconds, either before or after packaging, so as to produce a product that has an extended shelf life under normal refrigerated storage.

2 VAC 15-20-20. ~~Application of these rules and regulations. (Repealed.)~~

~~These rules and regulations (2 VAC 15-20-10 et seq.) shall apply to all markets unless otherwise expressly stated. However, they shall not apply to any person in any market keeping two cows or less on his premises where such person sells only that milk produced by such cows and delivery thereof is made on his premises in containers furnished by the purchaser.~~

2 VAC 15-20-21. Statement of purpose.

This chapter provides for the supervision, regulation and control of the production, processing, transportation, storage, distribution, and sale of milk and cream; protects the well-being of the people of the Commonwealth of Virginia; and promotes the public interest.

2 VAC 15-20-30. Establishment of Virginia market sales areas.

A. *This chapter shall apply to all established Virginia market sales areas, unless otherwise stated, and is applicable to the commercial use of milk.*

B. The following market sales areas are established and shall include the geographical territories indicated:

1. "Eastern Virginia sales area" means the territory included within the boundaries of the counties of Accomack, Amelia, Brunswick, Buckingham, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Gloucester, Goochland, Greenville, Halifax, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Lunenburg, Mathews, Mecklenburg, Middlesex, New Kent, Northampton, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Southampton, Surry, Sussex, Westmoreland, and York; as well as the territory included in the cities of Chesapeake, Colonial Heights, Franklin, Hampton, Hopewell, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, South Boston, Suffolk, Virginia Beach and Williamsburg.

2. "Southwest Southwestern Virginia sales area" means the territory included within the boundaries of the counties of Bland, Buchanan, Dickenson, Lee, Russell, Scott, Tazewell, Washington, and Wise; as well as the territory included in the cities of Bristol and Norton.

3. "Western Virginia sales area" means the territory included within the boundaries of the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Botetourt, Campbell, Carroll, Clarke, Craig, Culpeper, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Henry, Highland, Louisa, Madison, Montgomery, Nelson, Orange, Page, Patrick, Pittsylvania, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Shenandoah, Smyth, Spotsylvania, Stafford, Warren, and Wythe; as well as the territory included in the cities of Buena Vista, Charlottesville, Clifton Forge, Covington, Danville, Fredericksburg, Galax, Harrisonburg, Lexington, Lynchburg, Martinsville, Radford, Roanoke, Staunton, Waynesboro and Winchester.

C. *The following Virginia geographical territories are not included within defined Virginia market sales areas:*

The territory included within the boundaries of the counties of Arlington, Fairfax, Loudoun, and Prince William; as well as the territory included in the cities of Alexandria, Annandale, Arlington, Fairfax, Manassas, Manassas Park, McLean, Reston, Springfield, and Tysons Corner.

2 VAC 15-20-50. Delivery and acceptance requirements; for all established marketing areas.

A. ~~The interval and amount of each delivery by producers or cooperative associations to the distributor concerned Deliveries shall conform to the following:~~

1. Producers shipping on a daily basis shall deliver in each delivery an amount of milk at least equal to their daily base, if produced. Producers shipping on an every other day basis shall deliver in each delivery an amount of milk at least equal to twice their daily base, if produced.

2. Deliveries other than in accordance with subdivision 1 ~~above of this subsection~~ shall be subject to the pricing procedures of ~~of~~ 2 VAC 15-20-80 A 4.

B. ~~The total amount of Milk to be delivered and accepted during a delivery period shall conform to the following:~~

1. Producers shall deliver within a delivery period an amount of milk at least equal to their base, if produced, and the *processing general* distributor concerned shall accept such deliveries.

2. A cooperative association operating under the provisions of 2 VAC 15-20-40 D 1 a shall deliver within a delivery period an amount of milk at least equal to the aggregated base of its members which is assigned and

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the *processing general* distributor concerned shall accept such deliveries.

3. Cooperative associations operating under the provisions of 2 VAC 15-20-40 D 1 a shall not be required to make daily deliveries in quantities less than the full volume of tankers that are currently in use by the cooperative associations.

C. Other *delivery* arrangements not in conflict with this chapter ~~as to total deliveries during a delivery period~~ may be mutually agreed upon by producers or cooperative associations and the *processing general* distributor concerned.

D. Production in excess of base assigned is not required to be delivered by producers or cooperative associations, or accepted by the *processing general* distributor concerned.

E. Cooperative associations may fulfill the delivery obligations ~~of its member, or members, whose base or bases are assigned to a given distributor of any of their base holding members.~~

F. Milk delivered in accordance with this chapter shall not be rejected by *processing general* distributors so long as the milk is ~~merchantable~~ *marketable* and meets the requirements of the health authorities having jurisdiction *and previously published standards of the processing general distributor.*

2 VAC 15-20-60. Classification and requirements of distributor licensees licenses.

~~A. No person shall engage in the business of a "distributor" unless and until he shall have obtained the applicable license. A distributor must have obtained the applicable license.~~

B. Applicants for licenses shall ~~make application on the forms and in the manner required by the commission and obtain an approval of such application before handling or selling milk. submit applications in accordance with approving authority's requirements. Applications must be approved before applicants can handle or sell milk. An applicant may receive temporary license from the administrator to operate as a licensed distributor provided the following conditions are met. The applicant must submit a written request to the administrator stating:~~

- ~~1. A request for temporary license be granted until the agency receives and processes a properly completed application.~~
- ~~2. The reasons for the need for license.~~
- ~~3. An agreement to abide by all laws and regulations governing the sale of milk in Virginia.~~
- ~~4. An agreement to properly account for receipts and utilization of all fluid milk and cream in Virginia and pay appropriate assessments.~~

C. Applications for license shall be reviewed and investigated for accuracy by the agency. The administrator shall hold an informal conference with the applicant and any

interested parties for the purpose of determining the accuracy of the information submitted and to clarify any issues involving the application for license. These conferences shall be held in a manner prescribed by the administrator.

D. *The administrator shall review all pertinent information regarding applications for distributor license with the approving authority for their approval.*

~~G. E. Licenses issued to distributors as defined under the Act are classified as follows:~~

~~1. Processing general distributor licenses are classified as those issued to persons engaged in the business of receiving, pasteurizing, processing and packaging producer milk in fluid form for consumption within the Commonwealth of Virginia. All processing general distributors shall maintain adequate facilities for handling producer milk.~~

~~2. Nonprocessing general distributor licenses are classified as those issued to persons who have, by contractual agreement, arranged to have a licensed processing general distributor receive, pasteurize, process and package under a specified label or trade name (other than that of the processing general distributor) producer milk in fluid form for consumption within the Commonwealth of Virginia.~~

~~For the purposes of Article 2, Chapter 21, Title 3.1 of the Code of Virginia and the regulations of the commission adopted pursuant thereto, the only private label products a nonprocessing general distributor shall sell are those packaged by the processing general distributor specified on the license of the nonprocessing general distributor.~~

~~3. Producer general distributor licenses are classified as those issued to persons engaged in the business of pasteurizing, processing and packaging only milk produced by their own herd.~~

~~4. Sub distributor licenses are classified as those issued to persons whose principal business is selling, on bona fide routes of their own, milk that is pasteurized, processed and packaged by and under the label or trade name of a licensed processing general distributor.~~

~~For the purposes of Article 2, Chapter 21, Title 3.1 of the Code of Virginia and the regulations of the commission adopted pursuant thereto, a sub distributor shall be licensed to sell the products of only one processing general distributor and shall be considered by the commission the agent of such processing general distributor.~~

- ~~1. Processing general distributor,~~
- ~~2. Distributor,~~
- ~~3. Producer general distributor, and~~
- ~~5- 4. Retail distributor.~~

Retail distributor licenses are classified as those granted to all other persons engaged in the business of a "distributor."

All such persons shall be considered to be licensed by the ~~commission, unless and~~ *approving authority* until this license is expressly suspended or revoked; however, no formal certificate of license is required or will be issued unless a ~~properly executed~~ an application for such license is filed with the ~~commission~~ *approving authority*.

~~D. F.~~ The ~~commission~~ *approving authority* may decline to grant a license and may suspend or revoke a license or ~~permit~~, after at least 10 days notice and a hearing, for any of the following reasons:

- ~~1. That the action is in the public interest.~~
- ~~2. That 1.~~ The applicant or licensee is not qualified by character, or experience, or financial responsibility, or equipment or personnel to properly conduct the business.
- ~~3. That 2.~~ The applicant or licensee has made a false statement or inaccurate report of a material fact to the ~~commission~~ *approving authority*.
- ~~4. That 3.~~ The applicant or licensee is insolvent, has made a general assignment for the benefit of creditors or ~~that has a money judgement judgment has been~~ secured against him upon which execution has been returned wholly or partly unsatisfied.
- ~~5. That 4.~~ The applicant or licensee has violated any *provision or provisions* of this chapter.
- ~~6. That 5.~~ The purpose of the application for any type of license is to circumvent any established prices promulgated by the ~~commission~~ *approving authority*.
- ~~7. That 6.~~ The applicant for a processing general distributor license or a licensed processing general distributor does not have facilities adequate to handle assigned milk from licensed producers.
- ~~8. That the processing general distributor licensee has not maintained facilities adequate to handle assigned milk from licensed producers.~~
- ~~9. That 7.~~ The licensee has rejected assigned milk without reasonable cause.
- ~~10. That 8.~~ The licensee has failed to account for or make payment for assigned milk.
- ~~11. That 9.~~ The licensee has failed to keep records or furnish information required.
- ~~12. That 10.~~ Any requisite health permit has been suspended, terminated or revoked.
- ~~13. That 11.~~ The licensee has ceased to operate.
- ~~14. That 12.~~ The licensee's responsible and authorized representatives of the licensee refuse to appear and testify as to their knowledge of the operations of the licensee.

~~E. All G.~~ Licenses issued to general distributors, ~~sub-distributors and other distributors~~ are not transferable and

shall remain in effect until surrendered, suspended or revoked by the ~~commission~~ *approving authority*.

~~F. H.~~ Processing general distributor and producer general distributor licensees may package and sell fluid milk and milk products only under those brands or trade names as filed with the ~~commission~~ *agency*. A processing general distributor, producer general distributor or distributor may market, sell or distribute fluid milk products purchased for resale only under those brands as filed with the agency. A distributor licensee shall provide written notification to the ~~commission~~ *agency* not less than 15 days prior to the introduction or discontinuance of a brand or trade name.

2 VAC 15-20-90. Records and reports.

A. Each distributor shall accurately prepare and maintain all records necessary to enable the ~~commission~~ *agency* or its representative to determine:

1. The amount, source, grade, butterfat test and price paid for all milk and cream received from all sources. These records must show daily transactions, summarized into monthly totals.
2. The use or disposition of all milk and cream received from all sources. These records must show retail, wholesale and other sales by units and the value received for each group of units shown as daily transactions, summarized into monthly totals.
3. The butterfat tests of each producer's milk made ~~pursuant~~ *according* to this chapter, the date such tests were made and the butterfat test of each commodity sold.

B. Not later than the seventh day of each month all ~~general distributors and subdistributors licensees, except retail distributors,~~ shall furnish the ~~commission~~ *completed forms agency with information which specify specifies* all receipts and utilization of milk, along with all ~~necessary supplemental forms and such other reports other information~~ as may be required by the ~~commission~~ *agency*. This information may be filed with the agency in any of the following approved formats:

1. Agency forms,
2. Federal reports,
3. Licensee generated printouts or reports, and
4. Computer media (only if the data furnished is compatible with agency hardware and software configurations).

Additionally, this information must be transmitted to the agency in an agency approved manner in order to meet established deadlines. This information must be compiled from records of a permanent nature and these records shall be subject to audit and inspection by any authorized representative of the ~~commission~~ *approving authority*. Not later than the 12th day of each month the ~~commission~~ *agency* shall inform each processing general distributor of the

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classified sales allocated to each producer or cooperative association for the previous month.

C. Each *processing* general distributor, *producer general distributor* and ~~subdistributor distributor~~ shall ~~prepare a ticket or invoice in duplicate showing document~~ in detail each wholesale transaction *either in written or electronic form*. ~~Copies of such tickets or invoices~~ This documentation shall be maintained *for at least six calendar months, or until audited*, and be subject to inspection by any authorized representative of the ~~commission~~ agency.

D. All books and records, *defined under Article 2 (§ 3.1-425 et seq.) of Chapter 21 of Title 3.1 of the Code of Virginia*, of all *licensed* distributors, ~~defined under Article 2, Chapter 21, Title 3.1 of the Code of Virginia of 1950, and of except retail~~, producers ~~and/or~~ and cooperative associations of producers, shall be subject to audit by any authorized representative of the ~~commission~~ agency.

E. Information relating to individual distributors, producers or cooperative associations of producers shall be confidential.

F. Cooperative associations shall file with the ~~office of the Milk Commission~~ agency a monthly statement. This statement, to be filed not later than the eighth of the ~~next~~ subsequent month, shall list the name, base allotment, and production of each of the cooperative associations baseholding producer members.

G. *Cooperative associations shall file with the agency by the seventh of the month a statement which indicates total daily deliveries by day made to licensed processing general distributors for deliveries made in the preceding month.*

H. *Cooperative associations shall furnish the agency not later than the last day of each month a copy of all billings for milk deliveries to licensed processing general distributors made in the prior month.*

2 VAC 15-20-100. Rules of practice.

The following rules of practice shall be observed:

1. The sale of milk products shall be in containers of the size and butterfat content as specified by the regulations of the Virginia Department of Agriculture and Consumer Services.

2. *Established wholesale and retail prices.*

a. *In the event the approving authority establishes wholesale and retail prices, except as provided in subdivision 4 below, 2 b of this section:*

(1) Retail prices, ~~when established by the commission,~~ shall apply to all sales other than wholesale or where milk is sold and consumed on the premises.

~~3. Except as provided in subdivision 4 below, (2) Wholesale prices, when established by the commission,~~ shall apply to sales of milk products by *processing* general distributors, *producer general*

~~distributors or subdistributors where such milk products are distributors~~ resold for consumption, whether on or off the premises, and shall apply to sales made by ~~general distributors or subdistributors~~ *all licensed distributors* to hotels, restaurants, stores, licensed boarding houses, vending machine operators and other operations which have a sales tax exemption certificate as set forth in § 58.1-623 of the Code of Virginia.

4. b. *Processing* general distributors or ~~subdistributors~~ *producer general distributors* may submit bids ~~requested by~~ *at other than established wholesale prices* to any governing body of any municipality, county or state, or by the federal government, or by any agency operated by the above, or by colleges, universities and schools, either elementary or secondary whether or not they be public or private, provided:

a. ~~That such~~ (1) The sales are classified as Class I for the purpose of producer payments, except those sales that are made on federal reservations over which the state government has ceded jurisdiction, and;

b. (2) The *processing* general distributor, *producer general distributor*, or ~~subdistributor~~ *distributor* has been licensed by the ~~commission~~ *approving authority* to distribute milk products in the market concerned.

5. c. No *processing* general distributor, ~~subdistributor~~ *producer general distributor, distributor* or retail distributor, his officers, agents or employees, shall engage in, permit or encourage any method or device in connection with the sale of milk ~~the result of which method or device will be to increase, or reduce which results in increasing or reducing the net price to purchases for the product~~ above the maximum price or below the minimum price, when established by the ~~commission~~ *approving authority*.

~~6. General distributors or subdistributors may use a milk container's side panels and labels for paid advertisements, provided:~~

a. ~~The advertisement does not promote or refer to an existing or prospective retail or wholesale customer of Class I milk products, and~~

b. ~~The advertisement, the container, or any part thereof, is without value, and~~

c. ~~The container, or proof of purchase thereof, is not referred to in the advertisement, and~~

d. ~~Any advertisement or label, other than the distributor's dairy label, does not advertise or promote any Class I milk product distributed by the distributor, and~~

~~e. The distributor and subdistributor certifies in writing that the advertisement has been made available to all licensed distributors within the market under equal terms and conditions and lists in the certificate all of such licensed distributors; and~~

~~f. Written approval is obtained from the office of the commission before an advertisement or an advertising program begins. Any denials must be based on subdivisions a through e above.~~

7. 3. *Processing general distributors, producer general distributors, or subdistributors distributors shall not directly or indirectly:*

a. Pay for advertising of milk in any place of business of a milk customer or prospective milk customer without first having obtained the written approval of the ~~State Milk Commission or its authorized representative agency.~~

b. Pay for advertising ~~by~~ of a milk customer or prospective milk customer. However, a distributor may pay at the published or prorata rate, whichever is less, for the actual space or service used for the advertising of his milk.

c. Provide a milk customer or prospective milk customer with any article for handling or serving milk except on a bona fide sale. In order to be considered bona fide such sale must meet the following minimum requirements:

(1) The sale price shall be not less than the cost (including freight and installation costs) or not less than the book value based on 10% per year depreciation of the cost to the distributor (plus installation costs).

(2) In the event that the article has been fully depreciated on a ten year basis the price to the milk customer or prospective milk customer shall be not less than original cost or 10% of its current replacement value whichever is the greater.

(3) In order to be considered as a cash sale, payment in full must be made by the milk customer or prospective milk customer within 31 days after installation of the article.

(4) If sale is made on other than a cash basis, as defined in subdivision (3) above, the following requirements shall apply:

(a) A down payment of not less than 10% of the total cost of the article must be made within 31 days after installation.

(b) Interest of not less than ~~8.0% per year~~ *the current prime rate at the time of sale* must be charged on the unpaid balance due the distributor for all sales made after July 1, 1974. ~~Interest of not less than 7.0% per year must be charged on~~

~~the unpaid balance due the distributor for all sales made prior to July 1, 1974.~~

(c) The unpaid balance must be paid in full within a period not to exceed three years, by monthly payments at least equal to 1/36 of the initial unpaid balance. Said payments may be anticipated in part or in whole.

(d) Payment of the balance due must be secured in such a manner that the article may be repossessed for nonpayment.

(e) In the event any payment becomes overdue by 60 days the article must be repossessed immediately.

However, the approving authority may grant an exemption for charitable purposes when requested in writing. Also, transactions involving milk handling equipment to any governing body of any municipality, county or state; to the federal government or any agency operated by the preceding; or to colleges, universities or schools (elementary or secondary, public or private) are exempted from these requirements.

d. Combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, if any, to the distributor of such commodity, product, or service.

e. Engage in any practice or practices which may tend substantially to lessen competition in, or substantially to increase the cost of, distribution of milk.

f. Advertise, transfer, sell or offer to sell at wholesale or retail any packaged Class I product purchased for resale at less than cost. Cost shall be ~~presumed to be~~ the net *purchase* invoice or transfer price, including all applicable discounts or rebates, plus 6.0% and *presumed delivery costs defined in subdivision 3 g 2 of this section*, unless a lower amount can be justified to the ~~commission's~~ *approving authority's* satisfaction by the licensee. ~~When seeking to make such a making~~ justification, the licensee shall have the burden of proof on all issues, and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual, *March 1, 1979*, prepared by Case and Company, Inc., for the Virginia State Milk Commission.

g. Advertise, transfer, sell or offer to sell at wholesale any packaged Class I product processed and packaged by their own facilities, leased, or subsidiary facilities or by contractual agreement at less than cost.

(1) Cost for Class I items sold at plant dock shall be presumed to be the total of the following cost factors:

(a) The net cost of the fluid milk computed at the established Class I rate (adjusted for butterfat content).

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(b) A shrinkage factor of 2.0% of the volume of each container computed at the established Class II rate for the plant average butterfat test.

(c) The net cost of any fortification or added ingredients.

(d) The net container cost.

(e) The net ~~State Milk Commission~~ *approving authority* assessment cost to the licensee.

(f) The weighted average of all other platform costs as determined by the *approving authority's* current ~~Milk Commission~~ cost study of "Cost Created in Processing and Distributing Milk by Processing General Distributors in Virginia."

(2) The ~~presumptive~~ *presumed* cost for Class I items delivered to wholesale accounts shall be the product of the total platform cost as set forth in subdivision G (1) above, multiplied by the following percentages:

More than 99 cases per delivery - Platform Cost x 1.0675 (6.75%)

From 14 to 99 cases per delivery - Platform Cost x 1.125 (12.5%)

Less than 14 cases per delivery - Platform Cost x 1.250 (25%)

Effective December 31, 1997, these percentages may be adjusted each year by the annual percentage of change in the weighted average case delivery cost as determined by utilizing the accounting principles set forth in the Fluid Milk Products Cost Manual, March 1, 1979, prepared by Case and Company, Inc.

However, when two or more wholesale accounts purchase Class I items from a distributor under a contractual agreement ~~that~~ *which* provides for consolidated billing and payment, the average case delivery for the entire group of accounts shown on the consolidated billing shall be used ~~in-lieu~~ *instead* of delivery volume to each individual account. For the purpose of this subdivision a case shall consist of ~~the following items:~~ *unit fluid equivalent of four gallons.*

Container	Units
Case of Multiquart (Greater than Gallon)	1
Case of Gallon	4
Case of Three Quart	6
Case of Half Gallon	9
Case of Quart	16
Case of Pint	28
Case of Half Pint	44
Case of Ten Ounce	32

(3) ~~In-lieu~~ *Instead* of the cost determination as set forth in subdivisions (1) and (2) of this subdivision, a licensee may substitute his costs provided they can

be justified to the ~~commission's~~ *agency's* satisfaction. When ~~seeking to make~~ *making* such a justification, the licensee shall have the burden of proof on all issues; and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual, *March 1, 1979*, prepared by Case and Company, Inc., for the Virginia State Milk Commission.

h. Purchase milk or accept transfer of fluid milk products except from processing general distributors, distributors, or producer general distributors licensed in the market.

4. *Processing general distributor, producer general distributor, and distributor sales to a governing body of any municipality, county or state, or the federal government, or colleges, universities and schools, both public and private, are specifically exempt from the below cost and other provisions of this section, provided the sales are classified as Class I for the purpose of producer payments, except those sales made on federal reservations and the processing general distributor, producer general distributor or distributor has been licensed by the approving authority to distribute milk products in the market concerned.*

5. *Other provisions of this chapter notwithstanding, no distributor shall be prohibited from meeting a lawful competitive price below his cost as determined by the provisions of this chapter provided a written statement is filed with the commission giving the following information prior to meeting that price:*

- The name and address of the distributor licensee offering the competitive price he anticipates meeting;*
- The exact price necessary to meet competition;*
- The effective date of the competitive price he anticipates meeting;*
- The effective date of his price necessary to meet the competitor's price; and*
- Does not at anytime sell or offer to sell at a price that is less than the competitor's price.*

~~8-~~ 6. Retail distributors.

a. *A retail distributor shall not purchase milk or accept transfer of fluid milk products except from processing general distributors or ~~subdistributors, distributors or producer general distributors~~ licensed in the market.*

~~b. Shall sell in a market only that milk purchased from a general distributor or subdistributor licensed in that market.~~

~~c. b.~~ *A retail distributor shall not combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, if any, to the distributor of ~~such~~ the commodity, product, or service for the*

purpose of circumventing the below cost provisions of this chapter.

~~e. c.~~ *A retail distributor shall not advertise, sell or offer to sell, at retail, any packaged Class I product at less than cost. Cost shall be presumed to be the net purchase invoice or transfer price including all applicable discounts on rebates, plus 6.0%, unless a lower amount can be justified to the commission's agency's satisfaction by the licensee. When seeking to make such making a justification, the licensee shall have the burden of proof on all issues and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual, dated March 1, 1979, prepared by Case and Company, Inc., for the Virginia State Milk Commission.*

~~e. d.~~ Other provisions of this chapter notwithstanding, no distributor shall be prohibited from meeting a lawful competitive price for like products below his cost as determined by the provisions of this chapter provided: (4) a written statement is filed with the commission giving the following information prior to meeting that price:

- ~~(a)~~ (1) The name and address of the distributor licensee offering the competitive price he anticipates meeting, and;
- ~~(b)~~ (2) The exact price necessary to meet competition, and;
- ~~(c)~~ (3) The effective date of the competitive price he anticipates meeting, and;
- ~~(d)~~ (4) The effective date of his price necessary to meet the competitor's price; and;
- ~~(e)~~ (5) Does not at anytime sell or offer to sell at a price that is less than the competitor's price.

~~e.~~ *A retail distributor may price code dated milk at less than cost on date of code or after to dispose of inventories of milk.*

7. Sales promotions, advertisements, and coupon offers involving fluid milk products are allowable provided the following conditions are met:

- a. Sales promotions, advertisements, or coupon offers are submitted to the agency in writing for the administrator's approval;*
- b. The effect of the promotion, advertisement or coupon is not to circumvent the below cost provisions of this chapter;*
- c. The promotion, advertisement, or coupon offer does not involve any distributor paying for the cost of any part of the promotion, advertisement, or coupon which results in circumvention of below cost prohibition; and*
- d. The promotion, advertisement, or coupon does not involve any practice or practices which may*

substantially lessen competition in or substantially increase the cost of milk.

Upon written request, a distributor may donate fluid milk products, if approved by the approving authority or designee, provided that the donated milk is classified as Class I for producer payment purposes.

2 VAC 15-20-110. Assessments.

A. All expenses necessary for the operation of the ~~commission~~ agency shall be met by assessments as provided for in Article 2; (§ 3.1-425 et seq.) of Chapter 21, of Title 3.1 of the Code of Virginia which. Assessments shall be collected by the ~~commission~~ agency and deposited immediately in a designated state depository to the Treasurer of Virginia.

B. The Assessments shall be made in the following manner:

1. ~~For the purpose of defraying the expenses of the commission an assessment~~ Assessments shall be collected from all licensed general processing distributors, producer general distributors, and distributors in an amount as directed by the ~~commission~~ from time to time, but not to approving authority. Assessments shall not exceed five cents per hundredweight on all milk, or cream (converted to terms of milk) handled by distributors and five cents per hundredweight of milk, or cream (converted to terms of milk) and/or sold by producers and cooperative associations of producers; ~~said~~. These assessments to shall be the same per hundredweight on producers and distributors.

2. Within 15 days ~~subsequent to~~ after the close of a delivery period, all licensed general processing distributors, producer general distributors, and distributors shall remit to the ~~commission~~ agency an amount equal to the total assessments levied on the ~~distributor~~ distributors and the producers and/or cooperative associations of producers. The amount of production assessment paid to the credit of producers or cooperative associations of producers by a distributor shall be ~~charged~~ credited against the amount payable to producers and/or cooperative associations of producers by said distributor.

2 VAC 15-20-120. Hearing notice and procedure.

A. Notice of proceedings under § 3.1-437 of the Code of Virginia shall be provided as set out in this subsection. The ~~commission shall cause to be published~~ approving authority may publish in a newspaper of general circulation ~~within the City of Richmond~~ a notice which shall inform the public generally of the proceeding contemplated and the time, date, and place of the public hearing. If the subject of the hearing will affect only limited areas of the state, the commission shall publish notice of the hearing in newspapers of general circulation within those areas. The commission shall publish the notice at least 14 days prior to the holding of the hearing.

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The administrator is directed to give ~~such~~ other notice as he deems appropriate, including notice to ~~baseholding producers and distributors persons on the distribution list~~ who would be affected by the ~~commission's approving authority's~~ order.

B. If the ~~commission exercises authority under this section establishing approving authority~~ establishes minimum retail prices for milk without a public hearing, it shall hold a public hearing on the emergency order not less than 15 nor more than 60 days after its issuance. Such notice will take the form as in subdivision subsection A ~~above~~ of this section.

C. Notice of proceedings under §§ 3.1-432 and 3.1-433 of the Code of Virginia shall be provided as set out in this subsection. The approving authority shall issue a notice of hearing in accordance with the provisions of 2 VAC 15-11-80.

~~C.~~ 2 VAC 15-20-125. Hearing procedures.

A. The official transcript of the *public* hearing conducted by the ~~commission approving authority~~ shall be the transcript of the ~~stenographic notes~~ taken at the *public* hearing by a court reporter employed by the ~~commission agency~~. ~~If the hearing is held pursuant to its emergency provisions and no court reporter is available, the administrator shall direct that notes be made of the hearing and be preserved for public inspection. The commission shall make available~~ The official transcript ~~or written notes~~ of any *public* hearing will be available ~~from the court reporter~~ to the public at cost.

~~D.~~ B. Except as otherwise amended by motion, ~~hearing for the commission public hearings~~ shall be substantially as follows:

1. The chairman of the commission shall call the *public* hearing to order and ~~thereafter~~ shall give, or cause to be given (i) the general nature of the hearing and the statutory authority for it; (ii) introduction into the record of a copy of the notice stating the time, place, date or dates such notice was given, and the method whereby it was served; (iii) the presentation of the evidence.

2. Unless otherwise directed by the ~~commission approving authority~~, or unless provided for under special rules governing the particular case, evidence and testimony will ordinarily proceed in the following order, followed by such rebuttal evidence as may be necessary and proper: (i) the commission's staff; (ii) producers or their representatives; (iii) distributors or their representatives; (iv) consumers.

C. An employee of the agency shall be designated as the hearing clerk for the purpose of administering oaths and affirmations, accepting and controlling evidence and briefs, and calling witnesses. Employees serving as hearing clerks will also be responsible for the preparation of a report of the proceedings with recommendations and proposed findings and conclusions. This report shall be made available to participants and other interested parties when requested in writing. It shall serve as the basis for exceptions, briefs and arguments to the agency.

~~E.~~ Whenever any *D.* Exhibits are offered in evidence during the *public* hearing, they will be received for identification ~~and~~ given an identifying number. All Exhibits will be numbered consecutively beginning with the number one and will bear an identifying suffix giving the name and organization of the person introducing it.

E. Participants and other interested parties shall be permitted to become a party to the proceedings and to conduct cross examination of witnesses upon written request. Written requests should be received by the agency not less than five working days prior to the date of the hearing. The agency reserves the right to limit the number of individuals from the same organization that will be permitted to cross examine witnesses.

F. All witnesses shall testify under oath and following their testimony shall be examined by the ~~commission approving authority~~ and its attorney.

G. Briefs may be required or allowed at the discretion of the ~~commission approving authority~~. The time for filing briefs shall be fixed ~~by~~ at the time they are required or authorized. For the purpose of ~~expediting~~ *expediting* the proceeding wherein briefs are to be filed, the parties may be required to file their respective ~~briefs~~ *briefs* on the same day, ~~and~~. Unless otherwise ordered by the ~~commission approving authority~~, reply briefs will not be permitted or received. The time for filing reply briefs, ~~if any~~, will be fixed by the ~~commission approving authority~~.

H. The ~~commission approving authority~~ shall make its decision only on that evidence introduced at the *public* hearing. The ~~commission approving authority~~ shall adopt, along with its order, its finding of facts and conclusions of law.

2 VAC 15-20-130. Repeal of prior rules and regulations.

~~Unless otherwise herein provided all rules and regulations and orders, both special and general, and all other like actions of the commission heretofore adopted and enforced by the commission with respect to the control, regulation and supervision of the milk industry in Virginia, which are in conflict herewith, are repealed upon the effective date of these rules and regulations. Upon the effective date of this chapter, any previous rules, regulations, and orders adopted by the approving authority which conflict with this chapter are repealed unless otherwise indicated.~~

DOCUMENTS INCORPORATED BY REFERENCE

Fluid Milk Products Cost Manual, Case & Company, Inc., March 1, 1979.

Costs Created in Processing and Distributing Milk Processed by General Distributors in Virginia, State Milk Commission, updated regularly.

SMC-1-
Rev. 11-1-96



VIRGINIA MILK COMMISSION
RICHMOND, VIRGINIA
APPLICATION FOR DISTRIBUTORS' LICENSE

IMPORTANT: This application must be submitted by the applicant to the Virginia Milk Commission, Richmond, Virginia

VIRGINIA MILK COMMISSION
200 N NINTH STREET SUITE 1015
RICHMOND VA 23219-3414
TELEPHONE NO.: (804) 786-2013
FAX NO.: (804) 786-3779

APPLICATION FOR DISTRIBUTORS' LICENSE

Name of Applicant: _____

Trading As: _____

Address: _____

Contact Person: _____
(Person to address questions concerning this application)

Type of License Requested (check one)

- Processing General Distributor
- Non-Processing General Distributor
- Sub-Distributor

LICENSE REQUESTED FOR ALL VIRGINIA MARKET SALES AREAS

Information to be Supplied by Virginia Milk Commission

Date of Hearing	Approved <input type="checkbox"/>	Minutes
Time of Hearing	Rejected <input type="checkbox"/>	Date of License
Place of Hearing		License Number

TO THE VIRGINIA MILK COMMISSION:

DATE RECEIVE BY SMC: _____

Pursuant to the provisions of Article 2, Chapter 21, Title 3.1 of the Code of Virginia of 1950 as amended, application is heret made as provided therein, and in accordance with the provisions of the said Act for a license to operate in Virginia defined controlled markets.

Business Location _____

Phone: _____

Mailing address (if different) _____

Fax: _____

- (Check one)
- Individual
 - Partnership
 - Corporation
 - Cooperative
 - Other

NAME OF OFFICERS, DIRECTORS OR PARTNERS	TITLES	ADDRESS
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Are you an affiliate of any person, firm or corporation? If so, give name and address of each:

Do you have one or more subsidiaries? If so, give name and address of each:

Number of years applicant has operated this business: _____ years

Sales Disposition:

Retail Wholesale Contractual Own Outlets
 U.S. Government Other _____

Has any legal action been taken against you by this commission for violations of rules and regulations?

_____ If yes, indicate date _____
 (Yes or No)

Have you made all reports and paid all assessments, as prescribed by the rules and regulations of this commission?

_____ (Yes, No, Not Applicable)

Applicant is currently subject to the following Milk Marketing Regulatory Agencies: (✓)

State Federal _____ None
 Order currently regulated under _____

Total estimated monthly Class I Sales volume in Virginia Market _____ pounds

TO BE COMPLETED BY PROCESSING GENERAL DISTRIBUTOR APPLICANTS ONLY:

Packaging under the following brand names _____

Manufacturing: (✓)

Starter <input type="checkbox"/>	Ice Cream <input type="checkbox"/>	I/C Mix <input type="checkbox"/>	Cottage Cheese <input type="checkbox"/>
Creamers <input type="checkbox"/>	Half & Half <input type="checkbox"/>	X Cream <input type="checkbox"/>	XX Cream <input type="checkbox"/>
Dips <input type="checkbox"/>	Sour Cream <input type="checkbox"/>	Yogurt <input type="checkbox"/>	Egg Nog <input type="checkbox"/>
Fruit Drinks & Juices <input type="checkbox"/>	Other: _____		

Size of glass containers used for fluid milk products (✓)

Bulk gallons Gallons Half-gallons Quarts Pints
 Ten-ounce 1/2 pints Other _____

Size of paper containers used for fluid milk products (✓)

Bulk gallons Gallons Half-gallons Quarts Pints
 Ten-ounce 1/2 pints Other _____

Size of plastic containers used for fluid milk products (✓)

Bulk gallons Gallons Half-gallons Quarts Pints
 Ten-ounce 1/2 pints Other _____

TO BE COMPLETED BY PROCESSING AND SUB DISTRIBUTOR APPLICANTS:

Milk to be processed by:

NAME _____
 ADDRESS _____

Is Proposed Processor currently Licensed in the following Virginia Milk Commission Markets: _____

Yes or No

Applicant will distribute under the following name brands:

Size of containers used in sales of fluid milk products: (✓)

Bulk Gallons Gallons Half-Gallons Quarts
 Pints Ten-ounce 1/2 Pints Other _____

TO BE COMPLETED BY ALL APPLICANTS:

The following questions are to be answered by inserting a check mark (✓) under the appropriate column headed "Yes" or "No"

	Yes	No
1. Is the applicant qualified by character, experience, financial responsibility and equipment to properly function as a distributor licensee?	_____	_____
2. Is the applicant solvent and is it a fact that the applicant has never made a general assignment for the benefit of creditors?	_____	_____
3. Is it a fact that the applicant has never had a judgement secured against it upon which execution	_____	_____

- 4. Is the applicant aware that the Virginia Milk Commission has promulgated and published Rules and Regulations for the Control, Regulations and Supervision of the Milk Industry in Virginia? _____
- 5. Has the applicant read the current Rules and Regulations of the Commission? _____
- 6. Does the applicant agree to abide by all the Rules and Regulations of the Commission. _____
- 7. Is the applicant aware of the Commission regulation regarding monthly reporting of receipts, sales and other utilization? _____
- 8. Is the applicant aware of the Commission requirement that a monthly assessment of Virginia Class 1 product sales in Virginia controlled markets will be payable by the 15th of the month following the month of sales? _____
- 9. Is the applicant aware of the promulgated regulations entitled rules of practice and their provisions? _____
- 10. Is the applicant aware of circumstances under which the licensee can be suspended or cancelled as provided for in the regulations? _____
- 11. Are all statements, reports and representations which have been, or may be, made by the applicant to the Commission true and accurate? _____
- 12. Does the applicant agree to accept the assignment of base and to accept delivery of milk in accordance with the Rules and Regulations? _____

THE FOLLOWING QUESTIONS ARE TO BE ANSWERED ONLY BY APPLICANTS WHO ARE PRESENTLY LICENSED BY THE COMMISSION:

- 13. Is it a fact that the applicant has never ceased to operate? _____
- 14. Is it a fact that the applicant has all requisite health permits and that no such health health permits have ever been suspended, terminated, or revoked? _____
- 15. Is it a fact that the applicant has never violated any of the Rules and Regulations of the Commission? _____
- 16. Is it a fact that the applicant has never failed to keep record or furnish information information required? _____
- 17. Is it a fact that the applicant has never rejected producers' milk without reasonable cause? _____
- 18. Is it a fact that the applicant has never failed to account and make payment? _____

THE FOLLOWING QUESTIONS ARE TO BE ANSWERED ONLY BY APPLICANTS WHO ARE NOT PRESENTLY LICENSED BY THE COMMISSION:

- 19. Does the applicant possess all requisite health permits? _____
- 20. Does the applicant agree to keep records and furnish required information? _____
- 21. Does the applicant agree not to reject producers' milk without reasonable cause? _____
- 22. Does the applicant agree to account and make payments? _____
- 23. Does the applicant agree to make assessment payments? _____

- 24. Has the applicant ever applied to the Virginia Milk Commission for a distributor's License? _____
- 25. Does the applicant agree to advise the commission in writing if any of the major information substantially changes? _____

I swear (or affirm) that the foregoing statements are true, full, and correct to the best of my knowledge and belief. I further swear (or affirm) that I have the authority to speak on behalf of and obligate the applicant.

Applicant

By: _____
Signature of authorized representative

DATE

TITLE

Phone Number: _____

Fax Number: _____

THE FOLLOWING CERTIFICATE MUST BE EXECUTED BY A NOTARY PUBLIC OR OTHER PERSON AUTHORIZED TO TAKE ACKNOWLEDGEMENTS

State of _____ County of _____

On this _____ day of _____ 19____

whose name is signed to the foregoing instrument, personally appeared before me, acknowledged the foregoing signature to his, and having been duly sworn by me, made oath that the statements made in the said instrument are true to the best of my knowledge and belief.

My Commission Expires _____ Notary Public

Proposed Regulations

Agency use only
Agency review findings and recommendations.

VIRGINIA STATE MILK COMMISSION
MONTHLY REPORT OF RECEIPTS AND UTILIZATION
This copy must be in the office of the State Milk Commission on the 7th of each month.

Licensee: _____ Report Month/year: _____
Address: _____ License No.: _____

- RECEIPTS -

SCHEDULE 1 - PRODUCER MILK
(From SMC-3)

Cooperative	Assigned Base Pounds	Product Pounds	Test	Fat Pounds	Line Number
					1
					2
					3
					4
					5

Total Base (Lines 1 - 5)

SCHEDULE 2 - RECEIPTS FROM OTHER PROCESSING DISTRIBUTORS LICENSED BY SMC
Exclude Producer-Distributors

Product Pounds	Test	Fat Pounds	Line

TOTAL CLASS I TRANSFERS RECEIVED

- Class I Transfers -

Product Pounds	Test	Fat Pounds	Line

TOTAL CLASS I - A TRANSFERS RECEIVED

- Class I - A Transfers -

Product Pounds	Test	Fat Pounds	Line

TOTAL CLASS II TRANSFERS RECEIVED

- Class II Transfers -

Product Pounds	Test	Fat Pounds	Line

TOTAL TRANSFERS IN (Lines 6, 7, 8)

SCHEDULE 3 - OTHER SOURCES & PROCESSING DISTRIBUTORS NOT LICENSED BY SMC
Includes Producer-Distributors & Regulated Products

Name & Location of Plant	Type of product	Pounds	Conversion Factor	Product Pounds	Test	Fat Pounds	Line
							10
							11
							12
							13
							14
							15
							16

Total (Lines 10 - 16)

SCHEDULE 4 - INVENTORY
(From SMC7-B)

Beginning Inventory, Fluid Milk Products: _____

TOTAL TO ACCOUNT FOR (Lines 9, 10, 17)

I certify that this information is true and accurate to the best of my knowledge and belief.

Prepared by: _____ Date: _____
Approved by: _____ Date: _____

SIGN _____
DATE _____

VIRGINIA STATE MILK COMMISSION
 SCHEDULE 7-2A - RECEIPTS FROM OTHER
 PROCESSING DISTRIBUTORS LICENSED BY SMC

SMC-7-2A
 REV 11-96

Licensee _____ Month/Year _____

Name and Location of Plant	Bulk or Packaged Product (Also Schedule 7-5A)	Product Pounds	Test	Fat Pounds	Line #
- UTILIZATION -					
SCHEDULE 5 - Transfer to Other Processing Distributors Licensed by SMC					
TOTAL CLASS I-A (Line 10 of SMC-7-5A)					
TOTAL CLASS I-A (Line 17 of SMC-7-5A)					
TOTAL CLASS II (Line 24 of SMC-7-5A)					
SCHEDULE 6 - Class I Sales and Transfers					
List Sales by Markets from SMC-7A)					
Eastern Market					22
Western Market					23
Southwestern Market					24
Total (Lines 22, 23, 24)					25
Class I Transfers (from line 19)					26
Total Class I (Lines 25 & 26)					27
SCHEDULE 7 - Class I-A Sales and Transfers					
Class I - A Sales (from SMC-7B)					
Class I - A Transfers (from Line 20)					
Total Class I - A (Lines 28 & 29)					
SCHEDULE 8 - Class II Usage					
MILK - CREAM - POWDER					
Used to Produce Cottage Cream					31
Used to Produce Dips & Sour Cream					32
Used to Produce Egg Nog					33
Used to Produce Ice Cream & Ice Cream Mix					34
Used to Produce Yogurt					35
Milk Dumped (Animal Feed, Rovic Returns, etc.)					36
Powder Used in Formulation of Class I Products					37
Powder Used in Class II Products					38
Packaged Cream Sales					39
Sales Used in Cooking & Baking					40
Sales to Plants Not Licensed by SMC					41
Class II Transfers (from Line 21)					
Ending Inventory - F.M.P. (from SMC-7B)					
Ending Inventory - Bulk Tanks					
Ending Inventory - Cream					
Total Class II (Lines 31 - 46)					
TOTAL ACCOUNTED FOR (Lines 27, 30, 47)					
DO NOT WRITE BELOW THIS LINE					

Name and Location of Plant	Bulk or Packaged Product and Type	Product Pounds	Test	Fat Pounds	Line #
					1
					2
					3
					4
					5
					6
					7
					8
					9
					10
TOTAL CLASS I (Carry to Line 6 of the SMC-7)					

- Class I - A -

Name and Location of Plant	Bulk or Packaged Product and Type	Product Pounds	Test	Fat Pounds	Line #
					11
					12
					13
					14
					15
					16
					17
TOTAL CLASS I - A (Carry to Line 7 of the SMC-7)					

- Class II -

Name and Location of Plant	Bulk or Packaged Product and Type	Product Pounds	Test	Fat Pounds	Line #
					18
					19
					20
					21
					22
					23
					24
TOTAL CLASS II (Carry to Line 8 of the SMC-7)					

STATE MILK COMMISSION
VOLUME-WEIGHT CONVERSION FACTORS FOR MILK AND MILK PRODUCTS

BUTTERFAT CONTENT (PERCENT)	GALLONS (LBS)	1/2 GAL (LBS)	QUARTS (LBS)	PINTS (LBS)	10 OZ. (LBS)	1/2 PTS. (LBS)
FLAVORED	8.00000	4.00000	2.00000	1.00000	0.62500	0.50000
0-0.99	8.63000	4.31500	2.15750	1.07875	0.67422	0.53938
1.00-2.99	8.62000	4.31000	2.15500	1.07750	0.67344	0.53875
3.00-4.99	8.60000	4.30000	2.15000	1.07500	0.67188	0.53750
5.00-8.99	8.58000	4.29000	2.14500	1.07250	0.67031	0.53625
9.00-13.99	8.55000	4.27500	2.13750	1.06875	0.66797	0.53438
14.00-18.99	8.51000	4.25500	2.12750	1.06375	0.66484	0.53188
19.00-22.99	8.48000	4.24000	2.12000	1.06000	0.66250	0.53000
23.00-26.99	8.45000	4.22500	2.11250	1.05625	0.66016	0.52813
27.00-28.00	8.43000	4.21500	2.10750	1.05375	0.65859	0.52688
29.00-30.99	8.41000	4.20500	2.10250	1.05125	0.65703	0.52563
31.00-32.99	8.40000	4.20000	2.10000	1.05000	0.65625	0.52500
33.00-34.99	8.39000	4.19500	2.09750	1.04875	0.65547	0.52438
35.00-36.99	8.37000	4.18500	2.09250	1.04625	0.65391	0.52313
37.00-38.99	8.36000	4.18000	2.09000	1.04500	0.65313	0.52250
39.00-40.99	8.35000	4.17500	2.08750	1.04375	0.65234	0.52188
41.00-42.99	8.33000	4.16500	2.08250	1.04125	0.65078	0.52063
43.00-44.99	8.32000	4.16000	2.08000	1.04000	0.65000	0.52000
45.00-46.99	8.30000	4.15000	2.07500	1.03750	0.64844	0.51875
47.00-48.99	8.29000	4.14500	2.07250	1.03625	0.64766	0.51813
49.00-50.99	8.28000	4.14000	2.07000	1.03500	0.64688	0.51750

SNC-7A
REV 11-95

VIRGINIA STATE MILK COMMISSION
MONTHLY REPORT OF CLASS I SALES
Purchased from Other Licensees

Month/Year: _____

Licensee:		License #:					Market:			
Product	Unit	Retail	Wholesale	Non-Proc. Distrib.	Schools	TOTL Units	Conversion Factor	Product Pounds	Fat Pounds	
Homo (List Type)	Gals. Bulk									
	Gals.									
	1/2 Gals.									
	Qts.									
S.F. Test	Pints									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
Lowfat	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Gals.									
	Qts.									
	Pints									
	Gals. Bulk									
Lowfat	Gals.									
	1/2 Gals.									
	Qts.									
	Pints									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
Butter Milk >1%	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
Butter Milk <1%	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
S.M.	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
S.M.	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
Choc. Milk	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
Lowfat or Drink	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Pts.									
	Gals. Bulk									
	Gals.									
	1/2 Gals.									
S.F. Test	Qts.									
	Pints									
	Gals. Bulk									
	Gals.									
S.F. Test	1/2 Gals.									
	Qts.									
	Pints									
	1/2 Pts.									
TOTAL										

PRODUCTION OF FORTIFIED AND RECONSTITUED PRODUCTS (MONTHLY SUMMARY)

INGREDIENTS	PRODUCT				Records, Skm
	Fortified Skm	Fortified B' Milk	Fortified H & H	Fortified Low Fat	
Fresh Skm Mly Lbs.					
B.F. Test					
B.F. Lbs.					
Reconstituted Skm Lbs.					
Whole Milk Lbs.					
B.F. Test					
B.F. Lbs.					
Cream Lbs.					
B.F. Test					
B.F. Lbs.					
Skim Milk Powder Lbs.					
Water Gall.					
Skim Condensed Lbs.					
%M.S.N.F.					
Whole Condensed Lbs.					
B.F. Test					
B.F. Lbs.					
%M.S.N.F.					
Culture Lbs.					
B.F. Test					
B.F. Lbs.					
Vat Yield Lbs.					
B.F. Test					
B.F. Lbs.					

RECONCILIATION OF PRODUCTS OTHER THAN FLUID MILK PRODUCTS UTILIZED										
RECEIPTS	% Skm Cond. Lbs.	% Whole Cond.		Frozen Cream		Powder Lbs.	Dry Curd Lbs.	Butter Lbs.	Choc. Lbs. Syrup/Powder	Sugar Lbs.
		Lbs.	B' Fat	Lbs.	B' Fat					
Beginning Inventory										
Own Manufacture										
Purchases										
Sales										
Ending Inventory										
TOTAL TO ACCT. FOR										

UTILIZATION										
Fortified Skm										
Fortified H & H										
Fortified Buttermilk										
Reconstitution										
Ice Cream Mixes										
Cottage Cheese										
Fortified Flavored Milk										
Fruit Drinks										
TOTAL ACCT'D FOR										
DIFFERENCE										

SMC - 76m
11-98

VIRGINIA STATE MILK COMMISSION
MONTHLY REPORT OF RECEIPTS AND UTILIZATION

CONTACT PERSON: _____ PHONE NO: _____

LICENSEE: _____ REPORT MONTH/YEAR: _____

ADDRESS: _____ LICENSE NO.: _____

I certify that this information is true and accurate to the best of my knowledge and belief.

Prepared by: _____ Date: _____

CLASS I SALES MARKS:

Product	Unit	Processor	Processor	Processor	Total Units	Conversion Factor	Product Pounds	Fat Pounds
Homo (H.V.G.)	Gals.							
	1/2 Gals.							
	Qts.							
B.F. Test	Pints							
	1/2 Pts.							
	Gals.							
Lowfat	1/2 Gals.							
	Qts.							
	Pints							
B.F. Test	1/2 Pts.							
	Gals.							
	1/2 Gals.							
Lowfat	Qts.							
	Pints							
	1/2 Pts.							
B.F. Test	Gals.							
	1/2 Gals.							
	Qts.							
Skim	Pints							
	1/2 Gals.							
	Gals.							
B.F. Test	Qts.							
	1/2 Pts.							
	Gals.							
Butter Milk	1/2 Gals.							
	Qts.							
	Pints							
B.F. Test	1/2 Pts.							
	Gals.							
	1/2 Gals.							
Choc. Milk	Qts.							
	Pints							
	1/2 Pts.							
B.F. Test	Gals.							
	1/2 Gals.							
	Qts.							
B.F. Test	Pints							
	1/2 Pts.							
	Gals.							
B.F. Test	Qts.							
	1/2 Gals.							
	Qts.							
B.F. Test	Pints							
	1/2 Pts.							
	Gals.							
TOTAL								

VAR. Doc. No. R97-523; Filed May 16, 1997, 9:57 a.m.

Virginia Register of Regulations

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-195-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concentrated Aquatic Animal Production Facilities.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Public Hearing Date: July 15, 1997 - 2 p.m. (Roanoke)
July 16, 1997 - 10 a.m. (Harrisonburg)
July 17, 1997 - 10 a.m. (Glen Allen)

Public comments may be submitted until August 11, 1997.

(See Calendar of Events section for additional information)

Basis: The basis for this regulation is § 62.1-44.2 et seq. of the Code of Virginia. Specifically, § 62.1-44.15(5) authorizes the State Water Control Board to issue permits for the discharge of treated sewage, industrial wastes or other waste into or adjacent to state waters. Section 62.1-44.15(7) authorizes the board to adopt rules governing the procedures of the board with respect to the issuance of permits. Further, § 62.1-44.15(10) authorizes the board to adopt such regulations as it deems necessary to enforce the general water quality management program; § 62.1-44.15(14) authorizes the board to establish requirements for the treatment of sewage, industrial wastes and other wastes; § 62.1-44.20 provides that agents of the board may have the right of entry to public or private property for the purpose of obtaining information or conducting necessary surveys or investigations; and § 62.1-44.21 authorizes the board to require owners to furnish information necessary to determine the effect of the wastes from a discharge on the quality of state waters.

Section 402 of the Clean Water Act (33 USC § 1251 et seq.) authorizes states to administer the National Pollutant Discharge Elimination System (NPDES) permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. Environmental Protection Agency (EPA) to administer a Virginia Pollutant Discharge Elimination System (VPDES) permit program. This Memorandum of Understanding was modified on May 20, 1991, to authorize the Commonwealth to administer a VPDES General Permit Program.

Purpose: The purpose of this proposed regulatory action is to adopt a General Virginia Pollutant Discharge Elimination System (VPDES) permit for concentrated aquatic animal production facilities. This proposed action is necessary to provide for a more efficient and economical permitting process for both the regulated community and the board. It will provide for the protection of the health, safety and welfare of the citizens of the Commonwealth by allowing the Department of Environmental Quality to devote more resources to the permitting of facilities with discharges of greater potential for adverse water quality impacts.

Substance: This proposed regulatory action will set forth guidelines for the permitting of discharges of wastewater from fish farms, hatcheries or other aquatic animal production activities.

Permit Number: VAG13 **Name of Permittee:** Any owner of a concentrated aquatic animal production facility in the Commonwealth of Virginia agreeing to be regulated under the terms of this general permit. **Facility Location:** Commonwealth of Virginia. **Receiving Waters:** Surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

On the basis of preliminary review and application of lawful standards and regulations, the State Water Control Board proposes to issue the general permit subject to certain conditions and has prepared a draft permit.

The proposed general permit requires solids management and consists of limitations and monitoring requirements on discharges to surface waters of the water in which aquatic animals are held and on discharges from the solids collection and/or treatment units for the following parameters: flow, no limit, report maximum; total suspended solids, 30 mg/l average, 60 mg/l maximum; settleable solids, 0.1 ml/l average, 3.3 ml/l maximum. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit.

Issues: No public comments were received following the publication of the Notice of Intended Regulatory Action. One issue that was raised during drafting of the proposed general permit was the amount and manner of solids control at facilities covered by the general permit. There are no disadvantages to the public or the agency as a result of the adoption of this proposed regulation. The advantages to the public and the agency are the streamlining of the permit process for these discharges and the reduction of the fees paid by the applicant for a permit for these discharges.

Estimated Impact: There are approximately 14 establishments currently holding individual VPDES permits in this industrial classification which may qualify for this proposed general permit. There may be other facilities which are currently operating without a permit which would be covered by this general permit. Adoption of this regulation will allow for the streamlining of the permit process as it relates to the covered category of discharges. Coverage under the general permit would reduce the paper work, time and expense of obtaining a permit for the owners in this category. Additionally, adoption of this proposed regulation would allow the department to redirect staff resources to those discharges which, due to size or complexity, would not appropriately be covered by a general permit.

Affected Locality: The regulation will be applicable statewide and will not affect any one locality disproportionately.

Applicable Federal Requirements: Section 402 of the Clean Water Act (33 USC § 1251 et seq.) authorizes states to administer the National Pollutant Discharge Elimination

Proposed Regulations

System permit program under state law. The Commonwealth of Virginia received such authorization in 1975 under the terms of a Memorandum of Understanding with the U.S. EPA.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 9-6.14:7.1 G of the Administrative Process Act and Executive Order Number 13 (94). Section 9-6.14:7.1 G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the proposed regulation. Under § 402 of the federal Clean Water Act and § 62.1-44.2 et seq. of the Code of Virginia, Virginia is authorized to administer the National Pollutant Discharge Elimination System (NPDES) permit program for discharges into or adjacent to state waters. The Virginia Pollutant Discharge Elimination System (VPDES) permit program is administered under a memorandum of understanding with the U.S. Environmental Protection Agency (EPA).

In many circumstances, federal and state law require the issuance of an individual VPDES permit to each establishment discharging wastes into state waters. However, the memorandum of understanding with EPA allows for the issuance, under certain conditions, of a generic VPDES permit to cover a category of discharger. Once the generic permit is issued, then qualifying facilities do not need to apply for a separate VPDES permit. Rather, they only need to certify that they meet the conditions set out in the general permit. The specific and general permits are the only alternatives available under the federal Clean Water Act.

It is the purpose of these regulations to replace the current, establishment-specific permit system for aquatic animal production facilities (fish farms) with a general permit system. The Department of Environmental Quality (DEQ) suggests that the change will result in lower administrative and compliance costs without causing any material changes in water quality.

Estimated economic impact. This proposal will greatly reduce the firms' costs of obtaining a VPDES permit and DEQ's costs of granting the permits. DEQ estimates that there are 13 firms currently holding or qualifying for VPDES permits in this industry. These firms pay a \$2,200 permit fee every five years. At the current rates, the fees may cover as little as 10% of DEQ's cost of processing the permit.¹ The

taxpayers must pay for the remainder. Given the five year life of the permits, the individual permits would cost this industry a total of \$6,565 per year on average and taxpayers would cover in excess of \$60,000. Under the general permit, fees would only add up to \$520 per year for the industry, and DEQ indicates that this is a reasonable estimate of the costs of processing applications for coverage under general permits.

Firms will also save some money on the costs of developing the information necessary for the permit application. While reliable estimates of application costs were not available, DEQ indicates that firms will realize some savings.

At the same time, this regulation is not expected to have any significant impact on water quality. The idea behind general permits is that a group of firms are all subject to the same standards and conditions under individual permits and, hence, there is no loss to water quality in establishing the permit standards one time and then automatically applying them to all firms that meet the requirements for the standard set of permit conditions. Such is the case for the 3,000 sources that might be covered under this general permit. Thus, we would expect no change in water quality resulting from the shift towards a general permit for fish farms.

We conclude, then, that this regulation is likely to save the dischargers some \$6,000 per year. Taxpayers could save in excess of \$60,000 per year. Since there is not expected to be any impact on water quality, this annual savings is a net gain to Virginia's economy.

Businesses and entities affected. The businesses affected are the 13 sources that will be covered by the general permit.

Localities particularly affected. No localities will be particularly affected by this regulation.

Projected impact on employment. There will be no measurable change in employment due to this regulation. There is no reason to believe that the resources freed up by this proposal will result in any net change in the level of employment.

Effects on the use and value of private property. Any possible increase in the value of affected firms due to these cost savings would be too small to measure.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis:

MEMORANDUM

DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION
OFFICE OF WATER PERMIT SUPPORT

P.O. Box 10009 Richmond, VA 23240-0009

SUBJECT: Economic Impact Analysis, General VPDES Permit for Concentrated Aquatic Animal Production Facilities, 9 VAC 25-195-10 et seq.

TO: File

FROM: Michael B. Gregory

¹ Personal conversation with Richard Ayers, DEQ.

DATE: May 16, 1997

I have reviewed the economic impact analysis prepared by DPB and received on May 9, 1997. I concur that there will be a significant savings to taxpayers with no change in water quality protection.

Regarding savings to the industry, however, I would like to clarify that as they are considered agricultural operations the aquatic animal production facilities are exempt from permit fees, both for individual and for general permits. Therefore the figure quoted as being saved by the industry due to permit fees is not correct. These savings will be realized by taxpayers. The permittees will realize some savings in the cost of developing information for permit applications, and by not having to pay the cost of the required public notice for individual permits.

One other minor correction is that the "3,000 sources" figure quoted in the third paragraph of the "Estimated Economic Impact" section may not be accurate. There are 14 individually permitted facilities at present, and we anticipate more that are unpermitted that will ask for coverage under the general permit. Three thousand is more than we would anticipate.

Summary:

The State Water Control Board has proposed to issue a general VPDES permit for concentrated aquatic animal production facilities. This proposed regulatory action sets forth guidelines for the permitting of discharges of wastewater from fish farms, hatcheries or other aquatic animal production activities. The proposed general permit requires solids management and consists of limitations and monitoring requirements on discharges of wastewater to surface waters for the following parameters: flow, no limit, report maximum; total suspended solids, 30 mg/l average, 60 mg/l maximum; settleable solids, 0.1 ml/l average, 3.3 ml/l maximum. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit.

CHAPTER 195.
GENERAL VIRGINIA POLLUTANT DISCHARGE
ELIMINATION SYSTEM (VPDES) PERMIT FOR
CONCENTRATED AQUATIC ANIMAL PRODUCTION
FACILITIES.

9 VAC 25-195-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law (Chapter 31 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia) and the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation (9 VAC 25-31-10 et seq.) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Aquatic animals" means finfish or shellfish.

"Concentrated aquatic animal production facility" means a hatchery, fish farm, or facility classified under Standard Industrial Classification (SIC) Codes 0273 or 0921 (Office of Management and Budget SIC Manual, 1987) or other facility which meets any of the following criteria:

1. Facilities that contain, grow, or hold cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, and produce 20,000 pounds (9,090 kilograms) or more harvest weight of aquatic animals per year, or feed 5,000 pounds (2,272 kilograms) or more of food during the calendar month of maximum feeding;
2. Facilities, other than closed ponds which discharge only during periods of excess runoff, that contain, grow, or hold warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, and produce 100,000 pounds (45,454 kilograms) or more harvest weight of aquatic animals per year; or
3. Cold water or warm water facilities that the board designates as concentrated aquatic animal production facilities upon determining that they are significant contributors of pollution to state waters.

"Cold water aquatic animals" includes, but is not limited to, the Salmonidae family of fish, e.g., trout and salmon.

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality or an authorized representative.

"Fish farm" means an establishment primarily engaged in the production of aquatic animals within a confined space and under controlled feeding, sanitation and harvesting procedures.

"Hatchery" means an establishment that occupies the majority of its facilities with holding aquatic animal brood stock, taking or incubating eggs, or raising hatched larvae to juveniles.

"Processing wastewater" means wastewater generated from aquatic animal processing operations, including but not limited to butchering or cleaning, washing, packing and related cleaning of facilities or equipment.

"Warm water aquatic animals" includes, but is not limited to, the Ictaluridae, Centrarchidae and Cyprinidae families of fish, e.g., respectively, catfish, sunfish and minnows.

"Wastewater" means the flow-through discharge of water in which the animals are held, the intermittent discharge from ponds or structures in which the animals are held, and the discharges from in-line or off-line settling or other solids collection or treatment units. It does not include processing wastewater as defined above.

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9 VAC 25-195-20. Purpose; delegation of authority; effective date of permit.

A. This general permit regulation governs the discharge of wastewater from concentrated aquatic animal production facilities.

B. The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

C. This general permit will become effective on *****, 199* and will expire five years after the effective date. For any covered owner, this general permit is effective upon compliance with all the provisions of 9 VAC 25-195-30 and the receipt of this general permit.

9 VAC 25-195-30. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9 VAC 25-195-40, complies with the effluent limitations and other requirements of 9 VAC 25-195-50, and complies with the following restrictions:

1. The owner shall not have been required to obtain an individual permit as may be required in the VPDES Permit Regulation (9 VAC 25-31-10 et seq.) or as indicated in Part III Q of 9 VAC 25-195-50, "When An Individual Permit May Be Required";

2. This general permit does not cover processing wastewater discharges;

3. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges; and

4. The owner shall install, operate and maintain treatment works, or take control measures necessary to comply with the conditions and limitations of this general permit.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9 VAC 25-195-40. Registration statement.

The owner shall file a complete general VPDES permit registration statement, which will serve as a notice of intent for coverage under the general permit for concentrated aquatic animal production facilities. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing construction or operation of the new discharge. Any owner of an existing concentrated aquatic animal production facility covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing concentrated aquatic animal

production facility not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall contain the following information:

VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT REGISTRATION STATEMENT FOR CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES

1. APPLICANT INFORMATION

A. Name of Facility: _____

B. Facility Owner: _____

C. Owner's Mailing Address

a. Street or P.O. Box _____

b. City or Town _____ c. State ___ d. Zip Code _____

e. Phone Number _____

D. Facility Location: _____

Street No., Route No., or Other Identifier

County: _____

E. Is the operator of the facility also the owner?

___ Yes ___ No

If No, complete F. & G.

F. Name of Operator or Facility Contact: _____

G. Operator or Facility Contact Mailing Address

a. Street or P.O. Box _____

b. City or Town _____ c. State ___ d. Zip Code _____

e. Phone Number _____

2. FACILITY INFORMATION

A. NATURE OF BUSINESS: (provide a brief description)

B. Indicate if any processing activities occur on site (e.g., fish cleaning, etc.) and if so, how wastewater from the processing is handled.

C. Is there or will there be discharge from the facility into surface receiving waters at least 30 days per year?

___ Yes ___ No

D. Does this facility currently have an existing VPDES Permit?

___ Yes ___ No

If yes, what is the permit No. _____

3. SIC CODES (check all applicable codes)

- 0273 Animal Aquaculture, Production of Finfish and Shellfish
- 0921 Fish Hatcheries
- _____ Other (indicate code)

4. MAP

Attach a topographic map extending to at least one mile beyond the property boundaries in all directions indicating location of the facility, location of intake and discharge points and other surface water bodies and, if a USGS map, the name of the topographical quadrangle.

5. FACILITY DRAWING

Attach a line drawing or schematic of the facility showing water flow through the facility. Show what happens to the water from the time it arrives at the facility until the time it leaves and discharges to the receiving waters. Indicate the name of the source of intake water and the name of the receiving waters. Show all wastewater discharges and provide the maximum daily and average monthly flow from each outfall. Include the number of ponds, raceways and similar structures.

6. MAXIMUM ANNUAL PRODUCTION

Indicate the species of fish or aquatic animals held and fed at your facility, and the total weight produced by your facility per year in pounds of harvestable weight and the maximum harvestable weight present at any one time. The weight values must be representative of your normal operation.

A. Cold Water Species

Species Total Yearly Harvestable Weight Maximum Present

Species	Total Yearly Harvestable Weight	Maximum Present
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Warm Water Species

Species Total Yearly Harvestable Weight Maximum Present

Species	Total Yearly Harvestable Weight	Maximum Present
_____	_____	_____
_____	_____	_____
_____	_____	_____

C. Indicate the total pounds of food fed during the calendar month of maximum feeding.

Month	Pounds of Food
_____	_____

7. TREATMENT INFORMATION

A. Describe the methods of cleaning raceways, ponds or other structures at the facility.

B. Describe the solids management and treatment methods, and any treatment units such as settling basins or screens, used to prevent solids from discharging into the receiving stream. Describe the disposal of the solids. If solids are land-applied, please include information on the disposal site and practices including location, number of acres, crops grown and the volume and frequency of land application.

8. CHEMICALS

Are any chemicals used to treat the food, water or aquatic animals or otherwise used at the plant in such a way that they might be in the discharge?

Yes No

If yes, provide the name of the chemical(s) here and describe how it is used, and how frequently it is used.

9. CERTIFICATION:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: _____ Date: _____

Name of person signing above: _____
 (printed or typed)

Title: _____

REQUIRED ATTACHMENTS

- Facility Drawing
- Topographic Map

For department use only:

Accepted/Not Accepted by: _____ Date: _____

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Basin _____ Stream Class _____ Section _____

Special Standards _____

9 VAC 25-195-50. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the VPDES Permit Regulation (9 VAC 25-31-10 et seq.).

General Permit No.: VAG13

Effective Date: _____

Expiration Date: _____

GENERAL PERMIT FOR CONCENTRATED AQUATIC ANIMAL PRODUCTION FACILITIES

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM

AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of concentrated aquatic animal production facilities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Monitoring and Reporting, and Part III - Management Requirements, as set forth herein.

PART I.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater from outfall(s)

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Monthly Average	Daily Maximum	SAMPLE Frequency	SAMPLE Type
Flow (MGD) ²	NA	NL	1/QUARTER	Estimate
Total Suspended Solids (mg/l)	30	60	1/QUARTER	Composite ³
Settleable Solids (ml/l)	0.1	3.3	1/QUARTER	Composite ³

2. Flow monitoring shall be performed at the time of Total Suspended Solids and Settleable Solids sampling.

3. Composite means hourly grab samples, not to exceed eight grab samples, taken over the duration of an operating day, including fish harvesting and/or unit cleaning operations, and combined to form one representative sample.

4. Samples shall be taken during periods of representative discharges including discharges associated with batch fish harvesting and solids removal.

NL = No Limitation, monitoring required

NA = Not applicable

B. Special conditions.

1. No sewage shall be discharged from this facility to surface waters except under the provisions of another VPDES permit specifically issued for that purpose.

2. There shall be no discharge of processing wastewater.

3. There shall be no chemicals added to the water or waste which may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the department. Chemicals shall not be discharged in amounts that are toxic to aquatic life.

4. There shall be no discharge of fish offal, dead fish, floating solids or visible foam in other than trace amounts.

5. Organic solids shall not be discharged in amounts which cause stream bed accumulations or degradation of state waters as determined in accordance with standard procedures.

6. The permittee shall develop, maintain on site, and implement a solids management plan, including recordkeeping of solids handling and disposal activities, in order to comply with the requirements of the performance criterion specified in subdivision B 5 above. The plan and records of solids handling activities shall be provided for inspection upon request by department personnel.

7. This permit shall be modified or, alternatively, revoked and reissued to comply with any applicable effluent standard, limitation or prohibition for a pollutant which is promulgated or approved under § 307(a)(2) of the Clean Water Act, if the effluent standard, limitation or prohibition so promulgated or approved:

a. Is more stringent than any effluent limitation on the pollutant already in the permit; or

b. Controls any pollutant not limited in the permit.

PART II.

MONITORING AND REPORTING.

A. Sampling and analysis methods.

1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.

2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act (40 CFR Part 136).

3. The sampling and analysis program to demonstrate compliance with the permit shall, at a minimum, conform to Part I of this permit.

4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Recording of results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

1. The date, exact place and time of sampling or measurements;
2. The person(s) who performed the sampling or measurements;
3. The dates analyses were performed;
4. The person(s) who performed each analysis;
5. The analytical techniques or methods used; and
6. The results of such analyses and measurements.

C. Records retention. All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or report or until at least one year after coverage under this general permit terminates, whichever is later. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

D. Additional monitoring by permittee. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.

E. Water quality monitoring. The board may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the

Virginia State Water Control Law, Clean Water Act or the board's regulations.

The permittee shall obtain and report such information if requested by the board. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the board.

F. Reporting requirements.

1. The permittee shall submit original monitoring reports of each quarter's performance to the department's regional office not later than January 10th, April 10th, July 10th and October 10th of each year.

2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department with the monitoring report at least the following information:

- a. A description and cause of noncompliance;
- b. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and
- c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The board may waive the written report requirement on a case-by-case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part II F 2 a, b and c regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.

Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities, or (vi) flooding or other acts of nature.

The report shall be made to the regional office. For reports outside normal working hours, leave a message and this shall fulfill the reporting requirements. For emergencies, the Virginia Department of Emergency

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Services maintains a 24-hour telephone service at 1-800-468-8892.

G. Signatory requirements. Any registration statement, report, or certification required by this permit shall be signed as follows:

1. Registration statement.

a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).

c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.

2. Reports. All reports required by permits and other information requested by the board shall be signed by:

a. One of the persons described in subdivision 1 a, b or c of this subsection; or

b. A duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in subdivision 1 a, b or c of this subsection; and

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)

(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the department prior to or together with any separate information, or registration statement to be signed by an authorized representative.

3. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

PART III. MANAGEMENT REQUIREMENTS.

A. Change in discharge of pollutants.

1. Any permittee proposing a new discharge shall submit a registration statement at least 30 days prior to commencing erection, construction, or expansion or employment of new processes at any facility. There shall be no construction or operation of said facilities prior to the issuance of a permit.

2. The permittee shall submit a new registration statement at least 30 days prior to any planned changes, including proposed facility alterations or additions, production increases, or process modifications when:

a. The planned change to a permitted facility may meet one of the criteria for determining whether a facility is a new source;

b. The planned change could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are neither limited in the permit nor subject to the notification level requirements in Part III A 3; or

c. The planned change may result in noncompliance with permit requirements.

3. The permittee shall promptly provide written notice of the following:

a. Any reason to believe that any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

(1) One hundred micrograms per liter (100 µg/l);

(2) Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol, and one milligram per liter (1 mg/l) for antimony;

(3) The level established in accordance with regulation under § 307(a) of the Clean Water Act and accepted by the board.

b. Any activity has occurred or will occur which would result in any discharge on a non-routine or infrequent basis of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following "notification levels":

- (1) Five hundred micrograms per liter (500 µg/l);
- (2) One milligram per liter (1 mg/l) for antimony;
- (3) The level established by the board

Such notice shall include information on (i) the characteristics and quantity of pollutants to be introduced into or from the treatment works; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from the treatment works; and (iii) any additional information that may be required by the board.

B. Treatment works operation and quality control.

1. Design and operation of facilities or treatment works or both and disposal of all wastes shall be in accordance with the registration statement filed with the department and in conformity with the conceptual design, or the plans, specifications, or other supporting data accepted by the board. The acceptance of the treatment works conceptual design or the plans and specifications does not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. At all times, all facilities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters.
- b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit.
- c. Maintenance of treatment facilities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.
- d. Collected solids shall be stored in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.

C. Adverse impact. The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.

D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Bypassing. Any bypass ("bypass" means intentional diversion of waste streams from any portion of a treatment works) of the treatment works herein permitted is prohibited unless:

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall notify the department promptly at least 10 days prior to the bypass. After considering its adverse effects the board may approve an anticipated bypass if:
 - a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.); and
 - b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down-time. However, if a bypass occurs during normal periods of equipment down-time, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.
2. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the department as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This

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notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in Part III F 1 above and in light of the information reasonably available to the permittee at the time of the bypass.

G. Conditions necessary to demonstrate an upset. A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology-based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;
2. The facility permitted herein was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;
3. The permittee submitted a notification of noncompliance as required by Part II F; and
4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.

H. Compliance with state and federal law. Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.

Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.

I. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.

J. Severability. The provisions of this permit are severable.

K. Duty to register. If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 120 days prior to the expiration date of this permit.

L. Right of entry. The permittee shall allow, or secure necessary authority to allow, authorized state and federal representatives, upon the presentation of credentials:

1. To enter upon the permittee's premises on which the establishment, treatment works, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;

2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;

3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;

4. To sample at reasonable times any waste stream, discharge, process stream, raw material or by-product; and

5. To inspect at reasonable times any collection, treatment or discharge facilities required under this permit.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection time unreasonable during an emergency.

M. Transferability of permits. This permit may be transferred to another person by a permittee if:

1. The current owner notifies the department 30 days in advance of the proposed transfer of the title to the facility or property;

2. The notice to the department includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and

3. The department does not within the 30-day time period notify the existing owner and the proposed owner of the board's intent to modify or revoke and reissue the permit.

Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.

N. Public access to information. Any secret formulae, secret processes, or secret methods other than effluent data submitted to the department may be claimed as confidential by the submitter pursuant to § 62.1-44.21 of the Code of Virginia. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "secret formulae, secret processes or secret methods" on each page containing such information. If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia and § 62.1-44.21 of the Code of Virginia).

Claims of confidentiality for the following information will be denied:

1. The name and address of any permit applicant or permittee; and
2. Registration statements, permits, and effluent data.

Information required by the registration statement may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.

O. *Permit modification.* The permit may be modified when any of the following developments occur:

1. When a change is made in the promulgated standards or regulations on which the permit was based;
2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Clean Water Act (33 USC § 1251 et seq.); or
3. When the level of discharge of a pollutant not limited in the permit exceeds applicable water quality standards or the level which can be achieved by technology-based treatment requirements appropriate to the permittee.

P. *Permit termination.* After public notice and opportunity for a public hearing, the general permit may be terminated for cause.

Q. *When an individual permit may be required.* The board may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:

1. The discharger(s) is a significant contributor of pollution.
2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a general permit.
3. The discharge violates the terms or conditions of this permit.
4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.
5. Effluent limitation guidelines are promulgated for the point sources covered by this permit.
6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a public hearing.

R. *When an individual permit may be requested.* Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this general permit to the individual permittee is automatically terminated on the effective date of the individual permit. When a general permit is issued which applies to a permittee already covered by an individual permit, such permittee may request exclusion from

the provisions of the general permit and subsequent coverage under an individual permit.

S. *Civil and criminal liability.* Except as provided in permit conditions on "bypassing" (Part III F), and "upset" (Part III G) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.

T. *Oil and hazardous substance liability.* Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.

U. *Unauthorized discharge of pollutants.* Except in compliance with this permit, it shall be unlawful for any permittee to:

1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or
2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.

VA.R. Doc. No. R97-529; Filed May 21, 1997, 10:57 a.m.

FINAL REGULATIONS

For information concerning Final Regulations, see Information Page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulation.

DEPARTMENT OF LABOR AND INDUSTRY

Safety and Health Codes Board

REGISTRAR'S NOTICE: The following regulatory actions are exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (c) of the Code of Virginia, which excludes regulations that are 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. The Safety and Health Codes Board will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 16 VAC 25-90-1910.19. Air Contaminants, Special Provisions, General Industry (29 CFR 1910.19).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

Paragraph (l) of Air Contaminants, Special Provisions, 29 CFR 1910.19, was amended to reference the new final rule, Occupational Exposure to 1,3-Butadiene, 29 CFR 1910.1051. Paragraph (l) explains that 29 CFR 1910.1051 applies to the exposure of every employee to 1,3-Butadiene in construction work, shipyard employment, longshoring and marine terminal.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Air Contaminants, Special Provisions, General Industry (29 CFR 1910.19) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of the amendment to paragraph (l) of Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, which was published in the Federal Register, Vol. 61, No. 214, pp. 56746-56856, November 4, 1996. Also published along with this amendment was the final regulation for Occupational Exposure to 1,3-Butadiene,

General Industry, 29 CFR 1910.1051, and amendments for the following regulations: Air Contaminants, General Industry, 29 CFR 1910.1000, and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to paragraph (l) of 16 VAC 25-90-1910.19, Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 3, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

510 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 798-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-90-1910.19, Air Contaminants, Special Provisions, General Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-508; Filed May 6, 1997, 2:04 p.m.

Title of Regulation: 16 VAC 25-90-1910.19. Air Contaminants, Special Provisions, General Industry (29 CFR 1910.19).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

On January 10, 1997, federal OSHA published final rules for the Occupational Exposure to Methylene Chloride: General Industry, 29 CFR 1910.1052, Shipyard Employment, 29 CFR 1915.1052 and Construction Industry, 29 CFR 1926.1152. These final rules reduced the existing eight-hour time-weighted average (TWA) permissible exposure limits (PEL), deleted the existing ceiling limit concentration, and reduced the existing short-term exposure limit.

Paragraph (m) was added to Special Provisions for Air Contaminants, General Industry, 29 CFR 1910.19. This new paragraph states that 29 CFR 1910.1052, Occupational Exposure to Methylene Chloride (MC), applies to the exposure of every employee and place of employment covered by 29 CFR 1910.16, Longshoring and marine terminals, in lieu of any different standard on exposure to MC which would otherwise be applicable by virtue of that section when it is not present in sealed, intact containers.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Air Contaminants, Special Provisions, General Industry (29 CFR 1910.19) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, along with the following final rules: Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052; Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052; and Occupational Exposure to Methylene Chloride, Construction Industry, 29 CFR 1926.1152, which were published in the Federal Register, Vol. 62, No. 7, pp. 1496-1619, January 10, 1997. Also published were amendments to the following regulations: Air Contaminants, General Industry, 29 CFR 1910.1000, and Gases, Vapors, Fumes,

Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-90-1910.19, Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 10, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STR
RICHMOND, VIRGINIA 23
(804) 786-9

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-90-1910.19, Air Contaminants, Special Provisions, General Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-504; Filed May 6, 1997, 2:01 p.m.

Final Regulations

Title of Regulation: 16 VAC 25-90-1910.1000. Air Contaminants, General Industry (29 CFR 1910.1000).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

On January 10, 1997, federal OSHA published final rules for the Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, Shipyard Employment, 29 CFR 1915.1052 and Construction Industry, 29 CFR 1926.1152. These final rules reduced the existing eight-hour time-weighted average (TWA) permissible exposure limits (PEL), deleted the existing ceiling limit concentration, and reduced the existing short-term exposure limit.

The entire entry for Methylene Chloride (Z37.23-1969) was removed from Table Z-2 of Air Contaminants, General Industry, 29 CFR 1910.1000, and replaced with the following entry in the substance column: "Methylene chloride: see § 1910.1052."

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Air Contaminants, General Industry (29 CFR 1910.1000) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to Air Contaminants, General Industry, 29 CFR 1910.1000, along with the following final regulations: Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052, and Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, and Occupational Exposure to Methylene Chloride, Construction Industry, 29 CFR 1926.1152, which were published in the Federal Register, Vol. 62, No. 7, pp. 1496-1619 January 10, 1997. Also published were amendments to the following regulations: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The regulations as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-90-1910.1000, Air Contaminants, General Industry, 29 CFR 1910.1000, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers,

the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 10, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 788-3651

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-90-1910.1000, Air Contaminants, General Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-505; Filed May 6, 1997, 2:02 p.m.

Agency

Department

February 3, 1997

July 15, 1997

Title of Regulation: 16 VAC 25-90-1910.1000. Air Contaminants, General Industry (29 CFR 1910.1000).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

Table Z-1 of Air Contaminants, General Industry, was amended to reflect changes resulting from the final rule on Occupational Exposure to 1,3-Butadiene, General Industry, 29 CFR 1910.1051. These changes include a reference to the Occupational Exposure to 1,3-Butadiene, General Industry, 29 CFR 1910.1051, and to paragraph (l) of Special Provisions for Air Contaminants, 29 CFR 1910.19.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STRE
RICHMOND, VIRGINIA 232
(804) 786-35

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-90-1910.1000, Air Contaminants, General Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Air Contaminants, General Industry (29 CFR 1910.1000) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of the amendment to Air Contaminants, General Industry, 29 CFR 1910.1000, which was published in the Federal Register, Vol. 61, No. 214, pp. 56746-56856 November 4, 1996. Also published along with this amendment was the final rule for Occupational Exposure to 1,3-Butadiene, General Industry, 29 CFR 1910.1051, and other amendments to the following regulations: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-90-1910.1000, Air Contaminants, General Industry, 29 CFR 1910.1000, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry

VA.R. Doc. No. R97-509; Filed May 6, 1997, 2:04 p.m.

Final Regulations

Title of Regulation: 16 VAC 25-90-1910.1051.
Occupational Exposure to 1,3-Butadiene, General Industry (29 CFR 1910.1051).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

This final regulation amended the 1971 standard regulating employee exposure to 1,3-Butadiene ("BD"), which is a colorless, odorless, flammable and carcinogenic chemical primarily used in the manufacture of synthetic rubber. Federal OSHA's new limits reduced the permissible exposure limit (PEL) from concentrations up to 1,000 parts BD per million parts of air (1,000 ppm) as an eight-hour time-weighted average (TWA) to an eight-hour TWA of 1 ppm and a short-term exposure limit (STEL) of 5 ppm for 15 minutes. An "action level" of 0.5 ppm as an eight-hour TWA was included in the standard as a mechanism for exempting an employer from some administrative burdens, such as employee exposure monitoring and medical surveillance, in instances where the employer can demonstrate that the employee's exposures are consistently at very low levels. To reduce exposures and protect employees, the BD standard includes requirements such as engineering controls, work practices and personal protective equipment, measurement of employee exposures, training, medical surveillance, hazard communication, regulated areas, emergency procedures and recordkeeping.

The BD standard includes four informational appendices covering employee information and training, technical information on BD, medical screening and surveillance issues and OSHA's sampling and analytical method and a mandatory appendix on respirator fit-testing procedures.

A unique feature of the standard is an exposure goal program which encourages employers to reduce exposures to the action level.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Occupational Exposure to 1,3 Butadiene, General Industry (29 CFR 1910.1051) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule for Occupational Exposure to 1,3-Butadiene, General Industry, and appendices, which were published in the Federal Register, Vol. 61, No. 214, pp. 56746-56856, November 4, 1996. Also published along with this final rule were the following related amendments: Special Provisions for Air Contaminants, General Industry, 29 CFR 1910.19; Air Contaminants, General Industry, 29 CFR 1910.1000; and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The regulations as adopted are not set out.

Implementation Schedule

Adoption date	04/07/97
Effective date	07/15/97
Initial Monitoring [1910.1051(d)(2)]	09/13/97
(f)(1) - Engineering controls	07/15/99
(g) - Exposure goal program	07/15/00

The following paragraphs of 29 CFR 1910.1051 will take effect within 180 days of the effective date (January 11, 1998).

- (e) - Permissible Exposure Limits
- (f) - Methods of compliance (excluding (f)(1) - engineering controls)
- (h) - Respiratory protection
- (i) - Protective clothing and equipment
- (j) - Emergency situations
- (k) - Medical screening and surveillance
- (l) - Communication of BD hazards to employees
- (m) - Recordkeeping

When the regulations, as set forth in the final rule for 16 VAC 25-90-1910.1051, Occupational Exposure to 1,3-Butadiene, General Industry, 29 CFR 1910.1051, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
February 3, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION

General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-90-1910.1051, Occupational Exposure to 1,3-Butadiene, General Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr." followed by a vertical line.

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-507; Filed May 6, 1997, 2:03 p.m.

Final Regulations

Title of Regulation: 16 VAC 25-90-1910.1052. Occupational Exposure to Methylene Chloride, General Industry (29 CFR 1910.1052).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

Methylene chloride (MC) is a volatile, colorless liquid with a chloroform-like odor which is used in various industrial processes in many different industries. Some of the uses include paint stripping, pharmaceutical manufacturing, paint remover manufacturing, metal cleaning and degreasing, adhesives manufacturing and use, polyurethane foam production, film base manufacturing, polycarbonate resin production, and distribution and formulation of solvents.

OSHA amended the MC final rule by reducing the existing eight-hour time-weighted average (TWA) permissible exposure limits (PEL) from 500 parts MC per million parts (ppm) of air to 25 ppm. Also, OSHA deleted the existing ceiling limit concentration of 1,000 ppm and reduced the existing short-term exposure limit from 2,000 ppm (measured over five minutes in any two-hour period) to 125 ppm, measured as a 15-minute TWA. In addition, OSHA set an "action level" of 12.5 ppm, measured as an eight-hour TWA. The final rule also contains provisions for exposure control, personal protective equipment, employee exposure monitoring, training, medical surveillance, hazard communication, regulated areas, and recordkeeping.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Occupational Exposure to Methylene Chloride, General Industry (29 CFR 1910.1052) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule for Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, along with the following regulations: Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052, and Occupational Exposure to Methylene Chloride, Construction Industry, 29

CFR 1926.1152, which were published in the Federal Register, Vol. 62, No. 7, pp.1496-1619, January 10, 1997. Also published along with these final regulations were amendments to the following regulations: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19; Air Contaminants, General Industry, 29 CFR 1910.1000; and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, 29 CFR 1926.55. The regulations as adopted are not set out.

Implementation Schedule

Adoption date	04/07/97
Effective date	07/15/97
Initial Monitoring [1910.1052(d)(2)]	
For employers with fewer than 20 employees	05/11/98
For polyurethane foam manufacturers with 20 to 99 employees	02/10/98
For other employers	11/12/97
Engineering controls [1910.1052(f)(1)]	
For employers with fewer than 20 employees	07/15/00
For polyurethane foam manufacturers with 20 to 99 employees	07/15/99
For other employers	07/15/98
All other requirements of 1910.1052	
For employers with fewer than 20 employees	07/15/97
For polyurethane foam manufacturers with 20 to 99 employees	04/11/98
For all other employers	01/11/98

Transitional dates: Exposure limits for MC specified in 29 CFR 1910.1000, Table Z-2, shall remain in effect until the start up dates for the exposure limits specified in 29 CFR 1910.1052 (n), or if the exposure limits in this section are stayed or vacated.

When the regulations, as set forth in 16 VAC 25-90-1910.1052, Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms

29 CFR

Assistant Secretary

Agency

April 10, 1997

VOSH Equivalent

VOSH Standard

Commissioner of Labor
and Industry

Department

July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION

General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-90-1910.1052, Occupational Exposure to Methylene Chloride, General Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-501; Filed May 5, 1997, 1:59 p.m.

Final Regulations

Title of Regulation: 16 VAC 25-100-1915.1052.
Occupational Exposure to Methylene Chloride, Shipyard Employment (25 CFR 1915.1052).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

Methylene chloride (MC) is a volatile, colorless liquid with a chloroform-like odor which is used in various industrial processes in many different industries. Some of the uses include paint stripping, pharmaceutical manufacturing, paint remover manufacturing, metal cleaning and degreasing, adhesives manufacturing and use, polyurethane foam production, film base manufacturing, polycarbonate resin production, and distribution and formulation of solvents.

OSHA amended the methylene chloride final rule, 29 CFR 1910.1052, by reducing the existing eight-hour time-weighted average (TWA) permissible exposure limits (PEL) from 500 parts MC per million parts (ppm) of air to 25 ppm. Also, OSHA deleted the existing ceiling limit concentration of 1,000 ppm and reduced the existing short-term exposure limit from 2,000 ppm (measured over five minutes in any two-hour period) to 125 ppm, measured as a 15-minute TWA. In addition, OSHA set an "action level" of 12.5 ppm, measured as an eight-hour TWA. The final rule also contains provisions for exposure control, personal protective equipment, employee exposure monitoring, training, medical surveillance, hazard communication, regulated areas, and recordkeeping.

29 CFR 1915.1052, Occupational Exposure to Methylene Chloride, Shipyard Employment, contains a note which states that the requirements applicable to shipyard employment under this section are identical to those set forth at 29 CFR 1910.1052, Occupational Exposure to Methylene Chloride, General Industry.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Occupational Exposure to Methylene Chloride, Shipyard Employment (29 CFR 1915.1052) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule for Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052, along with Occupational Exposure to Methylene Chloride, Construction Industry, 29 CFR 1926.1152, and Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, which were published in the Federal Register, Vol. 62, No. 7, pp.1496-1619, January 10, 1997. Also published along with these final regulations were amendments to the following: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19; Air Contaminants, General Industry, 29 CFR 1910.1000; and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The regulations as adopted are not set out.

Implementation Schedule

Adoption date	04/07/97
Effective date	7/15/97
Initial Monitoring	
[1910.1052(d)(2)]	
For employers with fewer than 20 employees	05/11/98
For polyurethane foam manufacturers with 20 to 99 employees	02/10/98
For other employers	11/12/97
Engineering controls	
[1910.1052(f)(1)]	
For employers with fewer than 20 employees	07/15/00
For polyurethane foam manufacturers with 20 to 99 employees	07/15/99
For other employers	07/15/98
All other requirements of 1910.1052	
For employers with fewer than 20 employees	07/15/97
For polyurethane foam manufacturers with 20 to 99 employees	04/11/98
For all other employers	01/11/98

Transitional dates: Exposure limits for methylene chloride specified in 29 CFR 1910.1000, Table Z-2, shall remain in effect until the start up dates for the exposure limits specified in 29 CFR 1910.1052(n), or if the exposure limits in this section are stayed or vacated.

When the regulations, as set forth in the final rules for 16 VAC 25-100-1915.1052, Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052, are applied to the Commissioner of the

Department of Labor and Industry or to Virginia employers,
the following federal terms shall be considered to read as
follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 10, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-100-1915.1052, Occupational Exposure to Methylene Chloride, Shipyard Employment, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script that reads "E. M. Miller, Jr.".

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-503; Filed May 5, 1997, 2:01 p.m.

Final Regulations

Title of Regulation: 16 VAC 25-175-1926.55. Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry (29 CFR 1926.55).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

On January 10, 1997, federal OSHA published final rules for the Occupational Exposure to Methylene Chloride: General Industry, 29 CFR 1910.1052; Shipyard Employment, 29 CFR 1915.1052; and Construction Industry, 29 CFR 1926.1152. These final rules reduced the existing eight-hour time-weighted average (TWA) permissible exposure limits (PEL), deleted the existing ceiling limit concentration, and reduced the existing short-term exposure limit.

In Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55, the entry for Methylene Chloride was removed and replaced with the following entry in the substance column: "Methylene chloride: see § 1910.1052."

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry (29 CFR 1926.55) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55, along with the following final rules: Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052, and Occupational Exposure to Methylene Chloride, Construction Industry, 29 CFR 1926.1152, which were published in the Federal Register, Vol. 62, No. 7, pp. 1496-1619 January 10, 1997. Also published were amendments to the following regulations: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, and Air Contaminants, General Industry, 29 CFR 1910.1000. The regulations as adopted are not set out.

When the regulations, as set forth in 16 VAC 25-175-1926.55, Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

Federal Terms	VOSH Equivalent
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 10, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

410 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3581

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-175-1926.55, Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-506; Filed May 6, 1997, 2:02 p.m.

Agency
February 3, 1997

Department
July 15, 1997

Title of Regulation: 16 VAC 25-175-1926.55. Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry (29 CFR 1926.55).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

Appendix A to Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, 29 CFR 1926.55, was amended to reflect changes resulting from the BD standard. Among the changes were references to Occupational Exposure to 1,3-Butadiene, Construction Industry, 29 CFR 1910.1051, and to Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry (29 CFR 1926.55) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's amendment to Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55, which was published in the Federal Register, Vol. 61, No. 214, pp. 56746-56856, November 4, 1996. Also published with this amendment was the final rule for Occupational Exposure to 1,3-Butadiene, General Industry, 29 CFR 1910.1051, and other amendments to the following regulations: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, and Air Contaminants, General Industry, 29 CFR 1910.1000. The amendments as adopted are not set out.

When the regulations, as set forth in the amendment to 16 VAC 25-175-1926.55, Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, 29 CFR 1926.55, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-175-1926.55, Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-510; Filed May 6, 1997, 2:05 p.m.

Final Regulations

Title of Regulation: 16 VAC 25-175-1926.451 and 16 VAC 25-175-1926.453. Scaffolds, Construction Industry; and administrative stay to 16 VAC 25-175-1926.451(b)(2)(i).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997; administrative stay to 16 VAC 25-175-1926.451(b)(2)(i) effective April 8, 1997.

Summary:

This amendment corrects minor miscellaneous errors appearing in the regulatory text of 29 CFR 1926.451 and 29 CFR 1926.453 of the final rule on Safety Standards for Scaffolds Used in the Construction Industry, published in the Federal Register, Vol. 61, p. 46026, August 30, 1996. 29 CFR 1926.451 covers general requirements of construction industry scaffolds and 29 CFR 1926.453 deals with aerial lifts. Additional minor corrections were made in the nonmandatory Appendix E of the Scaffold Standard which provides drawings of particular types of scaffolds and scaffold components, and graphic illustrations of bracing patterns and tie spacing patterns.

The implementation of 29 CFR 1926.451(b)(2)(i), which requires that roof bracket scaffolds be at least 12 inches wide, was stayed so that further rulemaking can determine what minimum width would be appropriate for roof bracket scaffolds.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Scaffolds, Construction Industry (29 CFR 1926.451 and 29 CFR 1926.453) are declared documents generally available to the public and appropriate for incorporation by reference. For this reason the entire documents will not be printed in the Virginia Register of Regulations. Copies of the documents are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of the corrections to federal OSHA's final rule for Scaffolds, Construction Industry, and Appendix E of the Scaffold Standard, 29 CFR 1926.451 and 29 CFR 1926.453, which were published in the Federal Register, Vol. 61, No. 228, pp. 59831-59832, November 25, 1996. Also adopted along with these corrections was an administrative stay to 29 CFR 1926.451(b)(2)(i), which deals with roof bracket scaffolds. The corrections as adopted are not set out.

When the regulations, as set forth in the final rule for 16 VAC 25-175-1926.451 and 16 VAC 25-175-1926.453, Scaffolds,

Construction Industry, 29 CFR 1926.451 and 1926.453, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
November 25, 1996	July 15, 1997
November 29, 1996 (administrative stay of 29 CFR 1926.451(b)(2)(i))	April 8, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

310 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-175-1926.451 and 16 VAC 25-175-1926.453, Scaffolds, Construction Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-500; Filed May 5, 1997, 1:58 p.m.

Title of Regulation: 16 VAC 25-175-1926.1152.
Occupational Exposure to Methylene Chloride, Construction Industry (29 CFR 1926.1152).

Statutory Authority: § 40.1-22(5) of the Code of Virginia.

Effective Date: July 15, 1997.

Summary:

Methylene chloride is a volatile, colorless liquid with a chloroform-like odor which is used in various industrial processes in many different industries. Some of the uses include paint stripping, pharmaceutical manufacturing, paint remover manufacturing, metal cleaning and degreasing, adhesives manufacturing and use, polyurethane foam production, film base manufacturing, polycarbonate resin production, and distribution and formulation of solvents.

OSHA amended the Methylene Chloride final rule, 29 CFR 1910.1052, by reducing the existing eight-hour time-weighted average (TWA) permissible exposure limits (PEL) from 500 parts methylene chloride per million parts (ppm) of air to 25 ppm. Also, OSHA deleted the existing ceiling limit concentration of 1,000 ppm and reduced the existing short-term exposure limit from 2,000 ppm (measured over five minutes in any two-hour period) to 125 ppm, measured as a 15-minute TWA. In addition, OSHA set an "action level" of 12.5 ppm, measured as an eight-hour TWA. The final rule also contains provisions for exposure control, personal protective equipment, employee exposure monitoring, training, medical surveillance, hazard communication, regulated areas, and recordkeeping.

Section 1926.1152, Occupational Exposure to Methylene Chloride, Construction Industry, contains a note which states that the requirements applicable to construction employment under this section are identical to those set forth at 29 CFR 1910.1052, Occupational Exposure to Methylene Chloride, General Industry.

Agency Contact: Copies of the regulation may be obtained from Bonnie H. Robinson, Regulatory Coordinator, Department of Labor and Industry, 13 South 13th Street, Richmond, VA 23219, telephone (804) 371-2631.

Note on Incorporation by Reference

Pursuant to § 9-6.18 of the Code of Virginia, Occupational Exposure to Methylene Chloride, Construction Industry (29 CFR 1926.1152) is declared a document generally available to the public and appropriate for incorporation by reference. For this reason the entire document will not be printed in the Virginia Register of Regulations. Copies of the document are available for inspection at the Department of Labor and Industry, 13 South 13th Street, Richmond, Virginia 23219, and in the office of the Registrar of Regulations, General Assembly Building, Capitol Square, Richmond, Virginia 23219.

On April 7, 1997, the Safety and Health Codes Board adopted an identical version of federal OSHA's final rule for Occupational Exposure to Methylene Chloride, Construction Industry, 29 CFR 1926.1152, along with Occupational Exposure to Methylene Chloride, Shipyard Employment, 29 CFR 1915.1052, and Occupational Exposure to Methylene Chloride, General Industry, 29 CFR 1910.1052, which were published in the Federal Register, Vol. 62, No. 7, pp. 1496-1619, January 10, 1997. Also published along with these final regulations were amendments to the following regulations: Air Contaminants, Special Provisions, General Industry, 29 CFR 1910.19, Air Contaminants, General Industry, 29 CFR 1910.1000, and Gases, Vapors, Fumes, Dusts, and Mists, Construction Industry, Appendix A of 29 CFR 1926.55. The regulations and amendments as adopted are not set out.

Implementation Schedule

Adoption date 04/07/97

Effective date 07/15/97

Initial Monitoring
 [1910.1052(d)(2)]

For employers with fewer than 20 employees 05/11/98

For polyurethane foam manufacturers with 20 to 99 employees 02/10/98

For other employers 11/12/97

Engineering controls
 [1910.1052(f)(1)]

For employers with fewer than 20 employees 07/15/00

For polyurethane foam manufacturers with 20 to 99 employees 07/15/99

For other employers 07/15/98

All other requirements of 1910.1052

For employers with fewer than 20 employees 07/15/98

For polyurethane foam manufacturers with 20 to 99 employees 04/11/98

For all other employers 01/11/98

Transitional dates: Exposure limits for methylene chloride specified in 29 CFR 1910.1000, Table Z-2, shall remain in effect until the start up dates for the exposure limits specified in 29 CFR 1910.1052(n), or if the exposure limits in this section are stayed or vacated.

When the regulations, as set forth in the final rules for 16 VAC 25-175-1926.1152, Occupational Exposure to Methylene Chloride, Construction Industry, 29 CFR

Final Regulations

1926.1152, are applied to the Commissioner of the Department of Labor and Industry or to Virginia employers, the following federal terms shall be considered to read as follows:

<u>Federal Terms</u>	<u>VOSH Equivalent</u>
29 CFR	VOSH Standard
Assistant Secretary	Commissioner of Labor and Industry
Agency	Department
April 10, 1997	July 15, 1997



COMMONWEALTH of VIRGINIA

VIRGINIA CODE COMMISSION
General Assembly Building

910 CAPITOL STREET
RICHMOND, VIRGINIA 23219
(804) 786-3591

May 22, 1997

Mr. Thomas A. Bryant, Chairman
Safety and Health Codes Board
Department of Labor and Industry
13 South Thirteenth Street
Richmond, Virginia 23219

Attention: Bonnie H. Robinson
Regulatory Coordinator

Dear Mr. Bryant:

This letter acknowledges receipt of 16 VAC 25-175-1926.1152, Occupational Exposure to Methylene Chloride, Construction Industry, submitted by the Department of Labor and Industry.

As required by § 9-6.14:4.1 C 4(c) of the Code of Virginia, I have determined that these regulations do not differ materially from regulations required by federal law and are, therefore, exempt from the operation of Article 2 of the Administrative Process Act.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. M. Miller, Jr." followed by a flourish.

E. M. Miller, Jr.
Acting Registrar of Regulations

VA.R. Doc. No. R97-502; Filed May 5, 1997, 2 p.m.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

Title of Regulation: 18 VAC 115-50-10 et seq. Regulations Governing the Practice of Marriage and Family Therapy.

Statutory Authority: §§ 54.1-2400 and 54.1-3505 of the Code of Virginia.

Effective Date: July 9, 1997.

Summary:

The regulations establish standards of ethics, fees and criteria for the licensure of marriage and family therapists.

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Janet Delorme, Department of Health Professions, 6606 West Broad Street, Richmond, VA 23230, telephone (804) 662-9575.

**CHAPTER 50.
REGULATIONS GOVERNING THE PRACTICE OF
MARRIAGE AND FAMILY THERAPY.**

18 VAC 115-50-10. Definitions.

A. The following words and terms, when used in this chapter, shall have the meaning ascribed to them in § 54.1-3500 of the Code of Virginia: (i) "board," (ii) "marriage and family therapy," (iii) "marriage and family therapist," and (iv) "practice of marriage and family therapy."

B. The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"AAMFT" means the American Association for Marriage and Family Therapy [, or an organization deemed substantially equivalent by the board].

"Internship" means a supervised, planned experience of at least one year, involving direct client contact with individuals, couples and families in a clinical setting in which the advanced student will observe, diagnose and treat, through the application of the principles, methods and techniques learned in training or educational settings.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the United States Secretary of Education as responsible for accrediting senior post-secondary institutions and training programs.

"Resident" means an individual who has submitted a supervisory contract to the board and has received board approval to provide clinical services in marriage and family therapy under supervision.

"Supervision" means an ongoing process in which a practitioner qualified to supervise in the discipline of marriage

and family therapy provides regular, documented, face-to-face guidance, instruction and evaluation of the clinical skills and competencies of the person or persons being supervised.

18 VAC 115-50-20. Fees.

A. The board has established fees for the following:

- | | |
|--|------|
| 1. Registration of supervision | \$20 |
| 2. Application processing | \$50 |
| 3. Biennial license renewal | \$75 |
| 4. Penalty for late renewal | \$10 |
| 5. Verification of license to another jurisdiction | \$10 |
| 6. Additional or replacement licenses | \$15 |
| 7. Additional or replacement wall certificates | \$15 |
| 8. Returned check | \$15 |

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Examination fees shall be paid directly to the examination service according to its requirements.

[18 VAC 115-20-25. Sex offender treatment provider certification.

Anyone licensed by the board as a marriage and family therapist who is seeking certification as a sex offender treatment provider shall obtain certification from the Virginia Board of Psychology and adhere to the Regulations Governing the Certification of Sex Offender Treatment Providers, 18 VAC 125-30-10 et seq.]

18 VAC 115-50-30. Application for licensure by examination.

Every applicant for examination for licensure by the board shall:

1. Meet the education and experience requirements prescribed in 18 VAC 115-50-50 and 18 VAC 115-50-60.
2. Submit to the board office in one package, the following items, not less than 90 days prior to the date of the examination:
 - a. A completed application;
 - b. The application fee prescribed in 18 VAC 115-50-20;
 - c. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirements of 18 VAC 115-50-60 along with documentation of the supervisor's out-of-state license where applicable;
 - d. Official transcript or transcripts in the original sealed envelope with the registrar's signature across the sealed envelope flap submitted from the appropriate institutions of higher education directly to the applicant, verifying satisfactory completion of the

Final Regulations

education requirements set forth in 18 VAC 115-50-50. Previously submitted transcripts for registration of supervision do not have to be resubmitted; and

e. Verification on a board-approved form that any out-of-state license, certification or registration is in good standing.

18 VAC 115-50-40. Application for licensure by endorsement.

Every applicant for licensure by endorsement shall submit in one package:

1. A completed application;
2. The application fee prescribed in 18 VAC 115-50-20; and
3. Documentation of licensure as follows:

a. Documentation of a current marriage and family therapy license in good standing obtained by standards substantially equivalent to those outlined in 18 VAC 115-50-50, 18 VAC 115-50-60 and 18 VAC 115-50-70 as verified by the out-of-state licensing agency on a board-approved form;

b. If currently holding an unrestricted license as a professional counselor in Virginia, documentation of successful completion of the requirements set forth in 18 VAC 115-50-50 and 18 VAC 115-50-60; or

c. [~~Within the first year of the effective date of these regulations~~ Prior to July 9, 1998], documentation of having met the requirements set forth in 18 VAC 115-50-80.

18 VAC 115-50-50. Education requirements for licensure examination.

The applicant shall have completed 60 semester hours or 90 quarter hours of graduate study in marriage and family therapy from a regionally accredited college or university, or a post-degree training institute accredited by the Commission on Accreditation for Marriage and Family [Therapy] Education, to include a graduate degree in marriage and family therapy or a related discipline which:

1. Was accredited by [~~AAMFT~~ the Commission on Accreditation for Marriage and Family Therapy Education] prior to the applicant's graduation from the program; or
2. Consisted of a sequential integrated program in the following core areas with a minimum of nine semester hours or 12 quarter hours completed in each of core areas identified in subdivisions 2a and 2b of this section (suggested courses are listed in parentheses after each core area):
 - a. Marriage and family studies (marital and family development; family systems theory);
 - b. Marriage and family therapy (systemic therapeutic interventions and application of major theoretical approaches);

c. Human development (theories of counseling; psychotherapy techniques with individuals; human growth and lifespan development; personality theory; psychopathology; human sexuality; multicultural issues);

d. Professional studies (professional identity and function; ethical and legal issues);

e. Research (research methods; quantitative methods; statistics);

f. Assessment and treatment (appraisal, assessment and diagnostic procedures); and

g. Internship (minimum of one year, to include 300 hours of supervised direct client contact with individuals, couples and families).

18 VAC 115-50-60. Supervised clinical experience.

A. Residency requirements.

1. The applicant shall have completed at least two years of supervised post-graduate degree experience, representing no fewer than 4,000 hours of supervised work experience, to include 200 hours of face-to-face supervision with the supervisor in the practice of marriage and family therapy. Residents shall receive a minimum of one hour of face-to-face supervision for every 20 hours of supervised work experience. No more than 100 hours of the supervision may be acquired through group supervision, with the group consisting of no more than six residents. Two hours of group supervision shall be equivalent to one hour of individual supervision.

2. Of the 4,000 hours stipulated, at least 1,000 hours must be acquired in direct client contact of which 500 hours shall be with couples or families or both.

3. The supervised experience shall consist of practice in the core areas set forth in 18 VAC 115-50-50.

4. Supervised experience shall begin after the completion of a master's degree in marriage and family therapy or a related discipline as set forth in 18 VAC 115-50-50. However, internship hours completed by a graduate of [~~an AAMFT~~ a Commission on Accreditation for Marriage and Family Therapy Education] accredited program as part of the graduate degree may count toward the 4,000 hours of supervised experience.

5. A post-master's degree internship that meets the requirements of this subsection may count toward the required 4,000 hours of experience. However, all 4,000 hours shall be continuous and integrated and shall, without exception, be conducted under qualified registered supervision.

6. Residents shall not call themselves marriage and family therapists, solicit clients, bill for services rendered or in any way represent themselves as marriage and family therapists. During the residency, they may use

their names, the initials of their degree and the title "Resident in Marriage and Family Therapy." Clients shall be informed in writing of the resident's status, along with the name, address and telephone number of the resident's supervisor.

7. Residents shall not engage in practice under supervision in any areas for which they do not have appropriate education.

8. Residents who do not become candidates for licensure after five years of supervised training shall submit an explanation to the board stating reasons the residency should be allowed to continue.

B. Supervisory requirements.

1. [~~During the first three years after the effective date of these regulations~~ Prior to July 9, 2000], any person who provides supervision for a resident in marriage and family therapy shall be licensed as a marriage and family therapist, professional counselor, clinical psychologist, clinical social worker or psychiatrist and shall be able to document on a board-approved form specific training in the supervision of marriage and family therapy.

2. [~~Three years from the effective date of these regulations~~ April July 9, 2000], all supervision shall be provided by a licensed marriage and family therapist or a licensed professional counselor, clinical psychologist, clinical social worker or psychiatrist who meets the requirements of 18 VAC 115-50-50 and 18 VAC 115-50-60, and who is able to document on a board-approved form specific training in the supervision of marriage and family therapy.

3. Supervision by an individual whose relationship to the resident is deemed by the board to compromise the objectivity of the supervisor is prohibited.

4. The supervisor shall assume full responsibility for the clinical activities of residents as specified within the supervisory contract, for the duration of the supervised experience.

C. Registration of supervision.

Individuals registering supervision with the board shall submit in one package:

1. A completed Registration of Supervision form;

2. The registration fee set forth in 18 VAC 115-50-20; and

3. Official graduate transcript or transcripts in the original sealed envelope with the registrar's signature across the sealed envelope flap submitted from the appropriate institution of higher education directly to the applicant, verifying satisfactory completion of the education requirements set forth in 18 VAC 115-50-50.

18 VAC 115-50-70. General examination requirements.

A. All applicants for initial licensure shall pass an examination, with a passing score as determined by the board.

B. The examination shall concentrate on the core areas of marriage and family therapy set forth in subdivision A 2 of 18 VAC 115-50-50.

C. Approved applicants shall sit for the examination within two years from the initial notification date of approval. Failure to do so will result in the revocation of approval and obligate the applicant to file a new application for examination.

D. Applicants who fail the examination twice in succession shall document completion of 45 clock hours of additional education or training for each area of deficiency as reported in the examination results prior to obtaining board approval for reexamination.

18 VAC 115-50-80. Waiver of examination requirement.

[~~Within one year of the effective date of these regulations~~ Prior to July 9, 1998], individuals who can document meeting the criteria in one of the following categories shall be licensed without examination:

1. Current and unrestricted professional counselor license in Virginia along with completion of four of the seven core coursework requirements outlined in 18 VAC 115-50-50 [- ; or]

2. Clinical membership in the AAMFT and:

a. A passing grade on the AAMFT examination as determined by the board; or

b. Ten years continuous practice in marriage and family therapy along with three letters attesting to competency to practice from professionals who are either licensed mental health professionals or AAMFT supervisors.

18 VAC 115-50-90. Biennial renewal of license.

A. All licensees who intend to continue to practice shall on or before the expiration date of the license submit to the board:

1. A license renewal application supplied by the board; and

2. The renewal fee prescribed in 18 VAC 115-50-20.

B. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

C. Licensees shall provide the board with official documentation of a legal name change and written notification of address changes within 90 days of such change.

18 VAC 115-50-100. Late renewal, reinstatement.

A. An individual whose license has expired may renew it within five years after its expiration date by paying the penalty

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fee prescribed in 18 VAC 115-50-20 as well as the license fee prescribed for each renewal period the license was not renewed.

B. An individual seeking reinstatement of a license five years or more after its expiration date must reapply according to the requirements of the regulations in effect at that time.

18 VAC 115-50-110. Standards of practice.

A. The protection of the public's health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all marriage and family therapists licensed by the board.

B. Persons licensed as marriage and family therapists shall:

1. Represent accurately their competence, education, training, experience and credentials, and practice only within the competency areas for which they are qualified by training or experience;
2. Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes and make appropriate referrals when it becomes clear that the client is not benefiting from the relationship;
3. Not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment;
4. When aware that the client is in a professional relationship with another mental health professional, in order to avoid confusion and conflict for the client, request a written release from the client to inform the other professional of the coexistent clinical relationship;
5. Disclose to clients all experimental methods of treatment, inform client of the risks and benefits of any such treatment, and ensure that the welfare of the client is not compromised in any experiment or research;
6. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;
7. Inform clients of the fees and billing arrangements, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed;
8. Inform clients of the limits of confidentiality at the onset of the therapeutic relationship;
9. Not solicit clients, advertise or represent services to the public in a manner that is false, misleading, deceptive or fraudulent;
10. (i) Maintain client records securely, and inform all employees of the confidentiality requirements; (ii) disclose client records to others only with expressed written consent or as mandated by law; and (iii) ensure client confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients before (a) videotaping, (b) audiorecording, (c)

permitting third party observation, or (d) using client records and clinical materials in teaching, writing, or public presentations. Client records shall be kept for a minimum of five years from the date of termination of the clinical relationship;

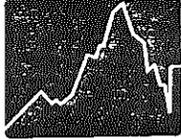
11. Avoid dual relationships with clients, former clients, residents, and supervisors [and supervisees] that could compromise the well being or increase the risk of exploitation of clients or residents, or impair the resident's or supervisor's objectivity and professional judgment. This includes, but is not limited to, such activities as providing therapy to close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with clients, former clients or current residents is strictly prohibited; and

12. Report to the board known or suspected violations of the laws and regulations governing the practices of mental health professionals.

18 VAC 115-50-120. Disciplinary action.

In accordance with § 54.1-2400 of the Code of Virginia, the board may, after a hearing, revoke, suspend or decline to issue or renew a license or impose a fine in accordance with the following:

1. Conviction of a felony or of a misdemeanor involving moral turpitude;
2. Procurement of a license, certificate or registration by fraud or misrepresentation;
3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or the general public;
4. Practicing marriage and family therapy without reasonable skill and safety to clients by virtue of physical or emotional illness, abusive use of alcohol, drugs, narcotics, chemicals or any other hazardous substance or material;
5. Providing or offering services outside the demonstrable areas of competency; or
6. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of marriage and family therapy, or any part or portion of this chapter.



Department of Health Professions
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717

COMMONWEALTH OF VIRGINIA
BOARD OF PROFESSIONAL COUNSELORS
AND
MARRIAGE AND FAMILY THERAPISTS

MARRIAGE AND FAMILY THERAPIST
LICENSURE APPLICATION

I hereby make application for licensure to practice as a **Marriage and Family Therapist** in the Commonwealth of Virginia [] by examination [] by endorsement.
The following evidence of my qualifications is submitted with a check or money order in the amount of \$50.00 made payable to the Treasurer of Virginia. The application fee is **non-refundable**.

INSTRUCTIONS		PLEASE TYPE OR PRINT	USE BLACK INK
1. Applicants must complete all sections.			
2. Completed application should be mailed to the above address.			
3. Application and supporting documents must be received no less than 90 days prior to the date of the written examination.			
I. GENERAL INFORMATION			
Name (Last, First, M.I., Suffix, Maiden Name)		Social Security Number	Date of Birth
Mailing Address (Street and/or Box Number, City, State, ZIP Code)		Home Telephone Number	
Business Name and Address (if different from above)		Business Telephone Number	
LICENSURE/CERTIFICATION - List all the states in which you now hold or have ever held an occupational license or certificate to practice as a mental health professional.			
STATE	LICENSE/CERTIFICATE NUMBER	ISSUE DATE	TYPE OF LICENSE/CERTIFICATE

ANSWER THE FOLLOWING QUESTIONS:

	YES	NO
1. Have you ever been denied the privilege of taking an occupational licensure or certification examination? If yes, state what type of occupational examination and where:	[]	[]
2. Have you ever had any disciplinary action taken against an occupational license to practice or are any such actions pending? If yes, explain in detail (use extra paper if necessary):	[]	[]
3. Have you ever been convicted of a violation of or pled nolo contendere to any federal, state, or local statute, regulation or ordinance or entered into any plea bargaining relating to a felony or misdemeanor? (Excluding traffic violations, except for driving under the influence.) If yes, explain in detail:	[]	[]
4. Have you ever been terminated or asked to withdraw from any health care facility, agency, or practice? If yes, provide an explanation on a separate sheet of paper.	[]	[]
5. Have you had any malpractice suits brought against you in the last 10 years? If yes, provide details on a separate sheet of paper.	[]	[]

The following statement must be executed by a Notary Public. This form is not valid unless properly notarized.

AFFIDAVIT
(To be completed before a notary public)

State of _____ County/City of _____

Name _____, being duly sworn, says that he/she is the person who is referred to in the foregoing application for licensure as a professional counselor in the Commonwealth of Virginia; that the statements herein contained are true in every respect, that he/she has complied with all requirements of the law; and that he/she has read and understands this affidavit.

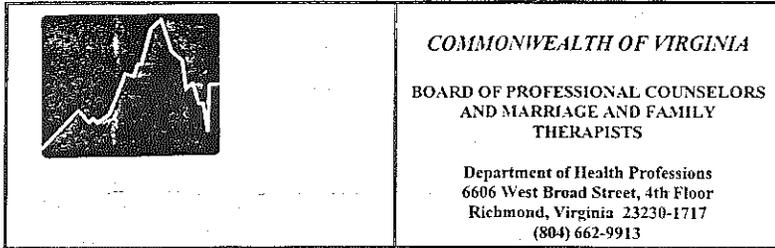
Signature of Applicant

Subscribed to and sworn to before me this _____ day of _____, 19____.

My commission expires on _____.

Signature of Notary Public

SEAL



VERIFICATION OF SUPERVISION FOR MARRIAGE AND FAMILY THERAPIST LICENSURE

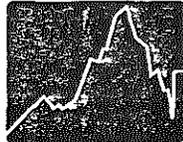
This form is to be filled out when supervision is completed.

Applicant's Name		Social Security Number
THE FOLLOWING SECTION IS TO BE COMPLETED BY THE SUPERVISOR		
Supervisor's Name		Professional Title
License Title(s)	License number(s) and expiration date(s) (If licensed outside Virginia, please submit Licensure Verification Form to licensing state)	
Training in supervision of marriage and family therapy? Yes [] No [] Please submit copies of any certificates or diplomas to document this training.		
Business Name and Address		
Employment Position		
Applicant's position under your supervision	Length of time under your supervision: _____ Month/Year to _____ Month/year	

draft 8/23/96

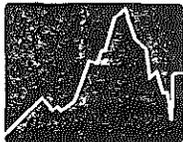
Total hours of resident's counseling experience: _____		
Total hours of resident's direct client contact _____		
Total hours of direct contact with couples and/or families: _____		
Total number of hours of individual, face-to-face supervision received by this applicant: _____		
Total number of hours of group supervision received by this applicant: _____		
SUPERVISION PROVIDED TO APPLICANT: Provide detailed information. For example: assess counseling skills; review treatment plans, monitor assessments, supervise family interventions and family groups.		
Please circle your evaluation of the resident's competencies for each item below. These areas are outlined in Section 18 VAC 115-50-50 of the regulation:		
YES means the resident has satisfactorily demonstrated competencies in that area. NO means additional work is required to achieve competency NA means your supervision did not include this area		
a. Marriage and family systems theory	YES	NO NA
b. Marriage and family therapy therapeutic interventions	YES	NO NA
c. Human development	YES	NO NA
d. Professional ethics	YES	NO NA
e. Assessment and treatment	YES	NO NA
In your opinion, is the applicant competent to practice under the license for which he or she has applied? Yes [] No []		
If no, please explain:		
Additional comments:		
_____ Supervisor's Signature		_____ Date

rev. 6/95



COMMONWEALTH OF VIRGINIA
BOARD OF PROFESSIONAL COUNSELORS
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MARRIAGE AND FAMILY THERAPISTS

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 (804) 662-9912



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 (804) 662-9912

LICENSURE VERIFICATION OF OUT-OF-STATE SUPERVISOR

LICENSURE VERIFICATION OF APPLICANT

TO BE COMPLETED BY VIRGINIA APPLICANT	
Virginia Applicant's Name: _____	
Name of Supervisor: _____	
Title and Number of Supervisor's License: _____	
TO BE COMPLETED BY OUT-OF-STATE BOARD	
Please complete this form and return it directly to the Virginia Board of Professional Counselors and Marriage and Family Therapists at the above address. Thank you.	
License Number of supervisor named above: _____	
Title of License: _____	
If license is M.D., is psychiatry a specialty? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Date of initial license: _____	
Expiration date of license: _____	
Is individual licensed in good standing? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Has there ever been any disciplinary action taken against the individual's license? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please give full particulars on the reverse side of this form.	
I certify that the information given is correct.	
SEAL	_____ Authorized Licensure Official
	_____ Jurisdiction State
	_____ Date

TO BE COMPLETED BY VIRGINIA APPLICANT	
Name: _____	License Number: _____
Address: _____	
TO BE COMPLETED BY STATE BOARD	
Please complete this form and return it directly to the Virginia Board of Professional Counselors and Marriage and Family Therapists at the above address. Thank you.	
Title of License: _____	License Number: _____
Issue Date: _____	Expiration Date: _____
By Examination _____ By Endorsement _____	By Waiver _____ By Reciprocity _____
Date of Examination: _____	Type of Written Examination: _____
Cut-Off Score _____ Applicant's Score _____	
Hours of post-degree supervised experience required _____	Hours of face-to-face supervision required _____
Hours of client contact required _____	Hours contact with couples and families _____
Has the license ever been surrendered, suspended, or revoked? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes, please give full particulars on the reverse side of this form.	
Certification by the authorized Licensure Official of the State Board of _____	
State of _____	I certify that the information is correct.
	_____ Authorized Licensure Official
	_____ Jurisdiction State
SEAL	

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-193-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Ready-Mixed Concrete Plants.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Effective Date: July 9, 1997.

Summary:

This regulation sets guidelines for the permitting of discharges of storm water and process wastewater from industrial activities associated with the manufacture of ready-mixed concrete. The general permit consists of limitations and monitoring requirements on discharges of process wastewater to surface waters for the following parameters: flow, no limit, report avg and max; pH, 6.0 min, 9.0 max; total suspended solids, 30 mg/l avg, 60 mg/l max; total residual chlorine, nondetectable max; total petroleum hydrocarbons, 15 mg/l max; and temperature, max (based on Water Quality Standards). Monitoring requirements for storm water discharge to surface waters include the following parameters: flow, total petroleum hydrocarbons, chemical oxygen demand, total suspended solids, and pH. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit.

Several changes were made to the regulation after it was published for public comment. A regulatory evaluation and petitions language (9 VAC 25-193-80) was added to the regulation as required by Executive Order 13(94) and § 9-6.14:4.1 C of the Administrative Process Act. In 9 VAC 25-193-70, the permit boilerplate language (Part III and Part IV) was replaced with a new Part III, and a notification levels special condition was added, as required by the VPDES Permit Regulation, 9 VAC 25-31-10 et seq. Additional changes were made to the regulation based on the comments received during the public comment period. The monitoring frequency for flow, pH, total suspended solids, total residual chlorine, and temperature for process wastewater and commingled storm water discharges was increased from once per quarter to once per month. The monitoring parameter "oil & grease" was changed to "total petroleum hydrocarbons."

Summary of Public Comment and Agency Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Agency Contact: Copies of the regulation may be obtained from Lily Choi, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4054.

CHAPTER 193.

GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR READY-MIXED CONCRETE PLANTS.

9 VAC 25-193-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in § 62.1-44.2 et seq. of the Code of Virginia (State Water Control Law), and the VPDES Permit Regulation (9 VAC 25-31-10 et seq.) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

"Department" means the Virginia Department of Environmental Quality.

"Director" means the Director of the Virginia Department of Environmental Quality, or an authorized representative.

"Industrial activity" means facilities [or those portions of a facility] where the primary purpose is classified as Standard Industrial Classification (SIC) Code 3273 (Office of Management and Budget (OMB) SIC Manual, 1987).

"Municipal separate storm sewer" means a conveyance or system of conveyances that discharges to surface waters (including roads with drainage systems, municipal streets, catch basin, curbs, gutters, ditches, man-made channels, or storm drains): (i) owned or operated by a state, city, town, county, district, association or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, storm water or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the Clean Water Act; (ii) designed or used for collecting or conveying storm water; (iii) which is not a combined sewer; and (iv) which is not part of a Publicly Owned Treatment Works (POTW).

"Runoff coefficient" means the fraction of total rainfall that will appear at the conveyance as runoff.

"Significant materials" includes, but is not limited to: raw materials; fuels; materials such as solvents, detergents, and plastic pellets; finished materials such as metallic products; raw materials used in food processing or production; hazardous substances designated under § 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA); any chemical the owner is required to report pursuant to the Emergency Planning and Community Right to Know Act (EPCRA) § 313; fertilizers; pesticides; and waste products such as ashes, slag and sludge that have the potential to be released with storm water discharges.

"Storm water" means storm water runoff, snow melt runoff, and surface runoff and drainage.

"Storm water discharge associated with industrial activity" means the discharge from any conveyance which is used for

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collecting and conveying storm water and which is directly related to manufacturing, processing or raw materials storage areas at an industrial plant. The term does not include discharges from facilities or activities excluded from the VPDES program under the VPDES Permit Regulation (9 VAC 25-31-10 et seq.). For the categories of industries identified in the "industrial activity" definition, the term includes, but is not limited to, storm water discharges from industrial plant yards; immediate access roads and rail lines used or traveled by carriers of raw materials, manufactured products, waste material, or byproducts used or created by the plant; material handling sites; refuse sites; sites used for the application or disposal of process wastewaters; sites used for the storage and maintenance of material handling equipment; sites used for residual treatment, storage, or disposal; shipping and receiving areas; manufacturing buildings; storage area (including tank farms) for raw materials, and intermediate and finished products; and areas where industrial activity has taken place in the past and significant materials remain and are exposed to storm water. For the purposes of this paragraph, material handling activities include the storage, loading and unloading, transportation, or conveyance of any raw material, intermediate product, finished product, byproduct or waste product. The term excludes areas located on plant lands separate from the plant's industrial activities, such as office buildings and accompanying parking lots as long as the drainage from the excluded areas is not mixed with storm water drained from the above described areas.

9 VAC 25-193-20. Purpose.

This general permit regulation governs the discharge of process waste water and storm water associated with industrial activity from ready-mixed concrete plants classified as Standard Industrial Classification Code 3273, provided that the discharge is through a point source to surface waters.

9 VAC 25-193-30. Delegation of authority.

The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

9 VAC 25-193-40. Effective date of the permit.

This general permit will become effective on [July 9, 1997]. This general permit will expire five years from the effective date. This general permit is effective as to any covered owner upon compliance with all the provisions of 9 VAC 25-193-50 and the receipt of this general permit.

9 VAC 25-193-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9 VAC 25-193-60, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-193-70, and provided that:

1. The owner shall not have been required to obtain an individual permit as may be required in the VPDES Permit Regulation (9 VAC 25-31-10 et seq.).

2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9 VAC 25-193-60. Registration statement.

The owner shall file a complete registration statement which shall serve as a notice of intent to be covered under the general VPDES permit for ready-mixed concrete plants. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing [~~construction or~~] operation of the concrete plant. Any owner of an existing concrete plant covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing concrete plant not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file this registration statement. The required registration statement shall contain the following information:

VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT REGISTRATION STATEMENT FOR READY-MIXED CONCRETE PLANTS

1. APPLICANT INFORMATION

A. Name of facility: _____

B. Facility owner: _____

C. Owner's mailing address

a. Street or P.O. Box _____

b. City or town _____ c. State ____

d. Zip code _____

e. Phone number _____

D. Facility location: _____
Street no., route no., or other identifier

E. Is the operator of the facility also the owner?

Yes ___ No ___

If No, complete F. & G.

F. Name of operator: _____

G. Operator's mailing address

a. Street or P.O. Box _____

b. City or town _____ c. State ____

- d. Zip code _____
- e. Phone number _____

2. FACILITY INFORMATION

A. Primary standard industrial classification

(SIC) code: _____

Secondary SIC codes: _____

B. Nature of business: (provide a brief description)

C. Does this facility currently have a VPDES permit?

Yes ___ No ___

If yes, give permit number. _____

Does this facility currently have a No-Discharge Certificate or a VPA permit? Yes ___ No ___

If yes, give permit number. _____

D. Describe any type of wastewater treatment or reuse/recycle system(s); identify any system(s) which operates only in a "no discharge" mode:

E. Are there vehicle/equipment maintenance activities on site? Yes ___ No ___

If yes, is there any process wastewater generated from these activities? Yes ___ No ___

F. Will this facility discharge noncontact cooling water from a geothermal unit or other system? Yes ___ No ___

If yes, describe the source of noncontact cooling water.

G. If any chemical additives are used in the geothermal or other system which discharges noncontact cooling water,

a. List the chemical additive to be employed and its purpose;

b. Give the proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;

c. Describe any wastewater treatment or retention (if any) to be provided during the use of the additives; and

d. Attach a Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

H. Describe any measures employed to reclaim, reuse or dispose of the waste concrete materials.

3. FACILITY DRAWING

Attach a schematic drawing showing the source(s) of water used on the property, the industrial operations contributing to or using water, and the conceptual design of the methods of treatment and disposal of wastewater and solids.

4. MAP

Attach a topographic map extending to at least one mile beyond property boundary. The map must show the outline of the facility, and the location of each of its existing and proposed intake and discharge points. Include all springs, rivers and other surface water bodies.

5. DISCHARGE INFORMATION

A. List all discharge outfalls by a number that is the same as on the map required in Question 4. Identify the processes which discharge through each outfall. Estimate the flow in gallons per day (gpd). Give the name of the waterbody receiving the discharge.

Outfall No.	Operation	Max. Daily Flow (gpd)	Receiving Stream
-------------	-----------	-----------------------	------------------

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. Identify the duration and frequency of the discharge for each separate discharge point:

Outfall No.	hour/day	day/week
-------------	----------	----------

_____	_____	_____
_____	_____	_____
_____	_____	_____

6. CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: _____ Date: _____

Name of person signing above: _____
(printed or typed)

Title: _____

REQUIRED ATTACHMENTS

Final Regulations

1. MSDS and available aquatic toxicity information for chemical additives (if applicable)
2. Facility drawing
3. Topographic map

For department use only:

Accepted/Not Accepted by: _____

Date: _____

Basin _____ Stream Class _____ Section _____

Special Standards _____

9 VAC 25-193-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the VPDES Permit Regulation (9 VAC 25-31-10 et seq.).

General Permit No.: VAG11

Effective Date:

Expiration Date:

GENERAL PERMIT FOR READY-MIXED CONCRETE PLANTS

AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM

AND THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended [,] and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of ready-mixed concrete plants are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - Storm Water Management, [~~Part III - Monitoring and Reporting, and Part IV - Management Requirements and Part III - Conditions Applicable to All VPDES Permits~~], as set forth herein.

PART I.

EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

A. Effluent limitations and monitoring requirements.

1. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge process wastewater which may contain input from vehicle/equipment maintenance activities, and may be commingled with noncontact cooling water or storm water associated with industrial activity. Samples taken in compliance with the monitoring requirements specified below shall be taken

at the following location(s): outfall(s) serial number: _____

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Sample Frequency Type
Flow (MGD)	NL	NL	NA	[1/3 Months Estimate 1/Month]
Total Suspended Solids (mg/l)	30	60	NA	[1/3 Months Grab 1/Month]
pH (standard units)	NA	9.0 ⁽¹⁾	6.0 ⁽¹⁾	[1/3 Months Grab 1/Month]
[Oil & Grease ⁽²⁾ (mg/l) Total Petroleum Hydrocarbons ⁽²⁾ (mg/l)]	NA	15	NA	1/3 Months Grab
Total Residual Chlorine (mg/l) ⁽³⁾⁽⁴⁾	NA	Non-detectable	NA	[1/3 Months Grab 1/Month]
Temperature ⁽⁵⁾ (°C)	NA	(5)	NA	[1/3 Months Immersion 1/Month] Stabilization

NL = No limitation, monitoring required

NA = Not applicable

(1) Where the Water Quality Standards (9 VAC 25-260-10 et seq.) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

(2) [~~Oil & Grease~~ Total Petroleum Hydrocarbons] limitation and monitoring are only required where a discharge contains process wastewater generated from the vehicle/equipment maintenance activities. [Total Petroleum Hydrocarbons shall be analyzed in accordance with the photometric method specified in the Standard Methods, 18th edition, 5520 F.]

(3) Chlorine and temperature limitation and monitoring are only required where a discharge contains noncontact cooling water.

(4) Chlorine limitation and monitoring are only required where the source water is chlorinated or where chlorine is added.

(5) The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters. No maximum temperature limit applies to discharges to estuarine waters.

For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in

temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

Part I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

A. Effluent limitations and monitoring requirements.

2. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge noncontact cooling water. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location(s): outfall(s) serial number _____.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS			MONITORING REQUIREMENTS	
	Average	Maximum	Minimum	Frequency	Sample Type
Flow (MGD)	NL	NL	NA	[4/3 Months 1/Month]	Estimate
pH (standard units)	NA	9.0 ⁽¹⁾	6.0 ⁽¹⁾	[4/3 Months 1/Month]	Grab
Total Residual Chlorine (mg/l) ⁽²⁾	NA	Non-detectable	NA	[4/3 Months 1/month]	Grab
Temperature (°C)	NA	(3)	NA	[4/3 Months 1/month]	Immersion Stabilization

NL = No limitation, monitoring required

NA = Not applicable

(1) Where the Water Quality Standards (9 VAC 25-260-10 et seq.) establish alternate standards for pH in the waters receiving the discharge, those standards shall be the maximum and minimum effluent limitations.

(2) Chlorine limitation and monitoring are only required where the source water is chlorinated or where chlorine is added.

(3) The effluent temperature shall not exceed a maximum 32°C for discharges to nontidal coastal and piedmont waters, 31°C for mountain and upper piedmont waters, 21°C for put and take trout waters, or 20°C for natural trout waters.

No maximum temperature limit applies to discharges to estuarine waters.

For estuarine waters, nontidal coastal and piedmont waters, mountain and upper piedmont waters, and put and take trout waters, the effluent shall not cause an increase in temperature of the receiving stream of more than 3°C above the natural water temperature. For natural trout waters, the temperature of the effluent shall not cause an increase of 1°C above natural water temperature. The effluent shall not cause the temperature in the receiving stream to change more than 2°C per hour, except in the case of natural trout waters where the hourly temperature change shall not exceed 0.5°C.

Natural temperature is defined as that temperature of a body of water (measured as the arithmetic average over one hour) due solely to natural conditions without the influence of any point-source discharge.

Part I. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS - STORM EVENT MONITORING.

A. Effluent limitations and monitoring requirements - storm event monitoring.

3. During the period beginning on the permit's effective date and lasting until the permit's expiration date, the permittee is authorized to discharge storm water associated with industrial activity which does not combine with other process wastewaters or noncontact cooling water prior to discharge. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location(s): outfall(s) serial number _____.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Maximum	Minimum	Frequency	Sample Type
Flow (MG)	NL	NA	1/Year	Estimate ⁽¹⁾
[Oil and Grease (mg/l) Total Petroleum Hydrocarbons ⁽³⁾ (mg/l)]	NL	NA	1/Year	Grab ⁽²⁾
Chemical Oxygen Demand (mg/l)	NL	NA	1/Year	Grab ⁽²⁾
Total Suspended Solids (mg/l)	NL	NA	1/Year	Grab ⁽²⁾
pH (standard units)	NL	NL	1/Year	Grab ⁽²⁾

NL = No limitation, monitoring required

NA = Not applicable

(1) Estimate of the total volume of the discharge during the storm event.

(2) The grab sample shall be taken during the first 30 minutes of the discharge. If during the first 30 minutes it was

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impracticable, then a grab sample shall be taken during the first hour of discharge.

[(3) Total Petroleum Hydrocarbons shall be analyzed in accordance with the photometric method specified in the Standard Methods, 18th edition, 5520 F.]

4. All storm water samples shall be collected from the discharge resulting from a storm event that is greater than 0.1 inches in magnitude and that occurs at least 72 hours from the previously measurable (greater than 0.1 inch rainfall) storm event.

B. Special conditions.

1. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. Except as expressly authorized by this permit, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, byproduct or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to surface waters.

3. Vehicles and equipment utilized during the industrial activity on a site must be operated and maintained in such a manner as to minimize the potential or actual point source pollution of surface waters. Fuels, lubricants, coolants, and hydraulic fluids, or any other petroleum products, shall not be disposed of by discharging on the ground or into surface waters. Spent fluids shall be disposed of in a manner so as not to enter the surface or ground waters of the state and in accordance with the applicable state and federal disposal regulations. Any spilled fluids shall be cleaned up to the maximum extent practicable and disposed of in a manner so as not to allow their entry into the surface or ground waters of the state.

4. There shall be no product mixing unit washout or truck washing activities conducted outside of the designated washdown and washout areas. All washout water shall be collected for recycle or treated prior to discharge.

[5.] Any waste concrete [~~dumped at the plant site~~ and dredged solids from the settling basins] shall be [managed] within a designated area [,] and [# any wastewaters including storm water generated from these activities] shall be [~~contained to prevent a discharge of pollutants to surface waters~~ collected for recycle or treated prior to discharge].

[~~5. 6.] No sewage discharges to surface waters are permitted under this general permit.~~

[~~6. 7.] For geothermal or other system which discharges noncontact cooling water, the use of any chemical additives, except chlorine, without prior approval is prohibited under this general permit. Prior~~

approval shall be obtained from the DEQ Regional Office before any changes are made to the chemical usage in the geothermal or other system. Requests for approval of chemical use shall be made in writing and shall include the following information:

a. The chemical additive to be employed and its purpose;

b. The proposed schedule and quantity of chemical usage, and the estimated concentration in the discharge;

c. The wastewater treatment or retention (if any) to be provided during the use of the additive; and

d. A Material Safety Data Sheet (MSDS) and available aquatic toxicity information for each additive proposed for use.

[~~7. 8.] Within six months after the date of coverage under this general permit, the permittee shall develop an Operations and Maintenance (O&M) Manual for the permitted facility. The O&M Manual shall include procedures and practices for the mitigation of pollutant discharges and for the protection of state waters from the facility's operations. The manual shall address, at a minimum, operations and maintenance practices for the wastewater treatment process units and chemical and material storage areas, solids management and disposal procedures, temporary and long-term facility closure plans, testing requirements and procedures, recordkeeping and reporting requirements and the duties and roles of responsible officials.~~

The permittee shall implement the O&M Manual procedures and practices as soon as possible but no later than 12 months after the date of coverage under this general permit. The manual shall be kept on site at the permitted facility and shall be made available to the department upon request.

[~~8. 9.] If the ready-mixed concrete plant discharges through a municipal separate storm sewer system to surface waters, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system of the existence of the discharge and provide the following information: the name of the facility; a contact person and phone number; and the location of the discharge.~~

[~~9. 10.] This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard, limitation or prohibition for a pollutant which is promulgated or approved under § 307 (a) (2) of the Clean Water Act, if the effluent standard, limitation or prohibition so promulgated or approved:~~

a. Is more stringent than any effluent limitation on the pollutant already in the permit; or

b. Controls any pollutant not limited in the permit.

[40- 11.] *The permittee shall ensure that all basins and lagoons maintain a minimum freeboard of one foot at all times. Should the one-foot freeboard not be maintained, the permittee shall immediately notify the DEQ Regional Office, describe the problem and corrective measures taken to correct the problem. Within five days of notification, the permittee shall submit a written statement to the regional office of explanation and corrective measures taken.*

[44- 12.] *For treatment systems which operate only in a "no discharge" mode, there shall be no discharge of pollutants to surface waters from these systems except in the case of a storm event which is greater than a 25 year-24 hour storm event. The operation of these systems shall not contravene the Water Quality Standards (9 VAC 25-260-10 et seq.), as adopted and amended by the board, or any provision of the State Water Control Law.*

[13. *The permittee shall notify the department as soon as he knows or has reason to believe:*

a. *That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit if that discharge will exceed the highest of the following notification levels:*

- (1) *One hundred micrograms per liter (100 ug/l);*
- (2) *Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;*
- (3) *Five times the maximum concentration value reported for that pollutant in the permit application; or*
- (4) *The level established by the board.*

b. *That any activity has occurred or will occur which would result in any discharge, on a nonroutine or infrequent basis, of a toxic pollutant which is not limited in this permit if that discharge will exceed the highest of the following notification levels:*

- (1) *Five hundred micrograms per liter (500 ug/l);*
- (2) *One milligram per liter (1 mg/l) for antimony;*
- (3) *Ten times the maximum concentration value reported for that pollutant in the permit application; or*
- (4) *The level established by the board.]*

PART II. STORM WATER MANAGEMENT.

A. *Recording of results. For each discharge measurement or sample taken pursuant to the storm event monitoring requirements of this permit, the permittee shall record and*

report with the Discharge Monitoring Report the following information, in addition to any applicable reporting requirements of Part III:

1. *The date and duration (in hours) of the storm event(s) sampled;*
2. *The rainfall measurements or estimates (in inches) of the storm event which generated the sampled discharge; and*
3. *The duration between the storm event sampled and the end of the previous measurable (greater than 0.1 inch rainfall) storm event.*

B. *Representative discharge. When a facility has two or more exclusively storm water outfalls that, based on a consideration of industrial activity, significant materials, and management practices and activities within the area drained by the outfall, the permittee reasonably believes discharge substantially identical effluent, the permittee may test the effluent of one of such outfalls and include with the Discharge Monitoring Report an explanation that the quantitative data also applies to the substantially identical outfalls provided that the permittee includes a description of the location of the outfalls and explains in detail why the outfalls are expected to discharge substantially identical effluent. In addition, for each exclusively storm water outfall that the permittee believes is representative, an estimate of the size of the drainage area (in square feet) and an estimate of the runoff coefficient of the drainage area (e.g. low (under 40%), medium (40% to 65%) or high (above 65%)) shall be provided.*

C. *Sampling waiver. When a permittee is unable to collect samples for the storm event monitoring requirements due to adverse climatic conditions, the permittee must submit with the Discharge Monitoring Report a description of why samples could not be collected, including available documentation of the event. Adverse weather conditions which may prohibit the collection of samples include weather conditions that create dangerous conditions for personnel (such as local flooding, high winds, hurricane, tornadoes, electrical storms, etc.) or otherwise make the collection of a sample impracticable (drought, extended frozen conditions, etc.). Permittees are precluded from exercising this waiver more than once for each outfall during the permit term.*

D. *Storm water pollution prevention plans. A storm water pollution prevention plan shall be developed for each facility covered by this permit. Storm water pollution prevention plans shall be prepared in accordance with good engineering practices. The plan shall identify potential sources of pollution which may reasonably be expected to affect the quality of storm water discharges associated with industrial activity from the facility. In addition, the plan shall describe and ensure the implementation of practices which are to be used to reduce the pollutants in storm water discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit. Facilities must implement the provisions of the storm water pollution prevention plan required under this part as a condition of this permit.*

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E. Deadlines for plan preparation and compliance.

1. For a storm water discharge associated with industrial activity that is existing on or before the effective date of this permit, the storm water pollution prevention plan:

a. Shall be prepared within 180 days after the date of coverage under this permit; and

b. Shall provide for implementation and compliance with the terms of the plan within 365 days after the date of coverage under this permit.

2. The plan for any facility where industrial activity commences on or after the date of coverage under this permit, and except as provided elsewhere in this permit, shall be prepared and provide for compliance with the terms of the plan and this permit on or before the date of submission of a registration statement to be covered under this permit.

3. Upon a showing of good cause, the board may establish a later date in writing for preparing and compliance with a plan for a storm water discharge associated with industrial activity that submits a registration statement in accordance with the registration requirements.

F. Signature and plan review.

1. The plan shall be signed in accordance with Part III [G K] (signatory requirements), and be retained on-site at the facility covered by this permit in accordance with Part III [G B] (retention of records) of this permit. When there are no on-site buildings or offices in which to store the plan, it shall be kept at the nearest company office.

2. The permittee shall make plans available to the department upon request.

3. The board may notify the permittee at any time that the plan does not meet one or more of the minimum requirements of this part. Such notification shall identify those provisions of the permit which are not being met by the plan, and identify which provisions of the plan require modifications in order to meet the minimum requirements of this part. Within 30 days of such notification from the board, or as otherwise provided by the board, the permittee shall make the required changes to the plan and shall submit to the department a written certification that the requested changes have been made.

G. Keeping plans current. The permittee shall amend the plan whenever there is a change in design, construction, operation, or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the storm water pollution prevention plan proves to be ineffective in eliminating or significantly minimizing pollutants from sources identified under Part II H 2 (description of potential pollutant sources) of this permit, or in otherwise achieving the general objectives of controlling pollutants in storm water discharges associated with industrial activity.

H. Contents of plan. The plan shall include, at a minimum, the following items:

1. Pollution prevention team. Each plan shall identify a specific individual or individuals within the facility organization as members of a storm water pollution prevention team that are responsible for developing the storm water pollution prevention plan and assisting the facility or plant manager in its implementation, maintenance, and revision. The plan shall clearly identify the responsibilities of each team member. The activities and responsibilities of the team shall address all aspects of the facility's storm water pollution prevention plan.

2. Description of potential pollutant sources. Each plan shall provide a description of potential sources which may reasonably be expected to add significant amounts of pollutants to storm water discharges or which may result in the discharge of pollutants during dry weather from separate storm sewers draining the facility. Each plan shall identify all activities and significant materials which may potentially be significant pollutant sources. Each plan shall include, at a minimum:

a. Drainage.

(1) A site map indicating an outline of the portions of the drainage area of each storm water outfall that are within the facility boundaries, each existing structural control measure to reduce pollutants in storm water runoff, surface water bodies, locations where significant materials are exposed to precipitation, locations where major spills or leaks identified under Part II H 2 c (spills and leaks) of this permit have occurred, and the locations of the following activities: fueling stations; vehicle and equipment maintenance and/or cleaning areas; loading/unloading areas; locations used for the treatment, storage or disposal of wastes; liquid storage tanks; processing areas; and storage areas.

(2) For each area of the facility that generates storm water discharges associated with industrial activity with a reasonable potential for containing significant amounts of pollutants, a prediction of the direction of flow, and an identification of the types of pollutants which are likely to be present in storm water discharges associated with industrial activity. Factors to consider include the toxicity of the chemicals; quantity of chemicals used, produced or discharged; the likelihood of contact with storm water; and history of significant leaks or spills of toxic or hazardous pollutants. Flows with a significant potential for causing erosion shall be identified.

b. Inventory of exposed materials. An inventory of the types of materials handled at the site that potentially may be exposed to precipitation. Such inventory shall include a narrative description of significant materials that have been handled, treated, stored or disposed in

a manner to allow exposure to storm water between the time of three years prior to the date of coverage under this general permit and the present; method and location of on-site storage or disposal; materials management practices employed to minimize contact of materials with storm water runoff between the time of three years prior to the date of coverage under this general permit and the present; the location and a description of existing structural and nonstructural control measures to reduce pollutants in storm water runoff; and a description of any treatment the storm water receives.

c. *Spills and leaks.* A list of significant spills and significant leaks of toxic or hazardous pollutants that occurred at areas that are exposed to precipitation or that otherwise drain to a storm water conveyance at the facility after the date of three years prior to the date of coverage under this general permit. Such list shall be updated as appropriate during the term of the permit.

d. *Sampling data.* A summary of existing discharge sampling data describing pollutants in storm water discharges from the facility, including a summary of sampling data collected during the term of this permit.

e. *Risk identification and summary of potential pollutant sources.* A narrative description of the potential pollutant sources from the following activities: loading and unloading operations; outdoor storage activities; outdoor manufacturing or processing activities; significant dust or particulate generating processes; and on-site waste disposal practices. The description shall specifically list any significant potential source of pollutants at the site and for each potential source, any pollutant or pollutant parameter (e.g. biochemical oxygen demand, etc.) of concern shall be identified.

3. *Measures and controls.* Each facility covered by this permit shall develop a description of storm water management controls appropriate for the facility, and implement such controls. The appropriateness and priorities of controls in a plan shall reflect identified potential sources of pollutants at the facility. The description of storm water management controls shall address the following minimum components, including a schedule for implementing such controls:

a. *Good housekeeping.* Good housekeeping requires the maintenance of areas which may contribute pollutants to storm water discharges in a clean, orderly manner.

b. *Preventive maintenance.* A preventive maintenance program shall involve timely inspection and maintenance of storm water management devices (e.g., cleaning oil/water separators, catch basins) as well as inspecting and testing facility equipment and systems to uncover conditions that could cause breakdowns or failures resulting in discharges of

pollutants to surface waters, and ensuring appropriate maintenance of such equipment and systems.

c. *Spill prevention and response procedures.* Areas where potential spills which can contribute pollutants to storm water discharges can occur, and their accompanying drainage points shall be identified clearly in the storm water pollution prevention plan. Where appropriate, specifying material handling procedures, storage requirements, and use of equipment such as diversion valves in the plan should be considered. Procedures for cleaning up spills shall be identified in the plan and made available to the appropriate personnel. The necessary equipment to implement a clean up should be available to personnel.

d. *Inspections.* In addition to or as part of the comprehensive site compliance evaluation required under Part II H, 4 of this permit, qualified facility personnel shall be identified to inspect designated equipment and areas of the facility at appropriate intervals specified in the plan. A set of tracking or followup procedures shall be used to ensure that appropriate actions are taken in response to the inspections. Records of inspections shall be maintained.

e. *Employee training.* Employee training programs shall inform personnel responsible for implementing activities identified in the storm water pollution prevention plan or otherwise responsible for storm water management at all levels of responsibility of the components and goals of the storm water pollution prevention plan. Training should address topics such as spill response, good housekeeping and material management practices. A pollution prevention plan shall identify periodic dates for such training.

f. *Recordkeeping and internal reporting procedures.* A description of incidents such as spills, or other discharges, along with other information describing the quality and quantity of storm water discharges shall be included in the plan required under this part. Inspections and maintenance activities shall be documented and records of such activities shall be incorporated into the plan.

g. *Sediment and erosion control.* The plan shall identify areas which, due to topography, activities, or other factors, have a high potential for significant soil erosion, and identify structural, vegetative, and/or stabilization measures to be used to limit erosion.

h. *Management of runoff.* The plan shall contain a narrative consideration of the appropriateness of traditional storm water management practices (practices other than those which control the generation or source(s) of pollutants) used to divert, infiltrate, reuse, or otherwise manage storm water runoff in a manner that reduces pollutants in storm water discharges from the site. The plan shall provide

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that measures that the permittee determines to be reasonable and appropriate shall be implemented and maintained. The potential of various sources at the facility to contribute pollutants to storm water discharges associated with industrial activity (see Part II H 2 (description of potential pollutant sources) of this permit) shall be considered when determining reasonable and appropriate measures. Appropriate measures may include: vegetative swales and practices, reuse of collected storm water (such as for a process or as an irrigation source), inlet controls (such as oil/water separators), snow management activities, infiltration devices, and wet detention/retention devices.

4. Comprehensive site compliance evaluation. Qualified personnel shall conduct site compliance evaluations at appropriate intervals specified in the plan, but, in no case less than once a year. Such evaluations shall provide:

a. Areas contributing to a storm water discharge associated with industrial activity shall be visually inspected for evidence of, or the potential for, pollutants entering the drainage system. Measures to reduce pollutant loadings shall be evaluated to determine whether they are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed. Structural storm water management measures, sediment and erosion control measures, and other structural pollution prevention measures identified in the plan shall be observed to ensure that they are operating correctly. A visual inspection of equipment needed to implement the plan, such as spill response equipment, shall be made.

b. Based on the results of the inspection, the description of potential pollutant sources identified in the plan in accordance with Part II H 2 (description of potential pollutant sources) of this permit and pollution prevention measures and controls identified in the plan in accordance with Part II H 3 (measures and controls) of this permit shall be revised as appropriate within 14 days of such inspection and shall provide for implementation of any changes to the plan in a timely manner, but in no case more than 90 days after the inspection.

c. A report summarizing the scope of the inspection, personnel making the inspection, the date(s) of the inspection, major observations relating to the implementation of the storm water pollution prevention plan, and actions taken in accordance with Part II H 4 b of this permit shall be made and retained as part of the storm water pollution prevention plan as required in Part III [G B]. The report shall identify any incidents of noncompliance. Where a report does not identify any incidents of noncompliance, the report shall contain a certification that the facility is in compliance with the storm water pollution prevention plan and this permit. The report shall be signed in

accordance with Part III [G K] (signatory requirements) of this permit and retained as required in Part III [G B].

5. Consistency with other plans. Storm water pollution prevention plans may reflect requirements for Spill Prevention Control and Countermeasure (SPCC) plans developed for the facility under § 311 of the Clean Water Act, Best Management Practices (BMP) Programs otherwise required by a VPDES permit for the facility or any other plans required by the board's regulations as long as such requirement is incorporated into the storm water pollution prevention plan.

[Part III. MONITORING AND REPORTING.

A. Sampling and analysis methods.

~~1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.~~

~~2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants promulgated at 40 CFR Part 136 (1995).~~

~~3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.~~

~~4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.~~

B. Recording of results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

~~1. The date, exact place and time of sampling or measurements;~~

~~2. The person(s) who performed the sampling or measurements;~~

~~3. The dates analyses were performed;~~

~~4. The person(s) who performed each analysis;~~

~~5. The analytical techniques or methods used;~~

~~6. The results of such analyses and measurements;~~

C. Records retention. All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or report or until at least one year after coverage under this general permit terminates, whichever is later. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or

regarding control standards applicable to the permittee, or as requested by the board.

~~D. Additional monitoring by permittee. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.~~

~~E. Water quality monitoring. The board may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the Virginia State Water Control Law, Clean Water Act or the board's regulations.~~

~~The permittee shall obtain and report such information if requested by the board. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the board.~~

~~F. Reporting requirements.~~

~~1. The permittee shall submit original monitoring reports of each quarter's performance to the department's regional office not later than the 10th day of April, July, October, and January. Annual sampling report shall be submitted to the department's regional office not later than the 10th day of January.~~

~~2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department with the monitoring report at least the following information:~~

~~a. A description and cause of noncompliance;~~

~~b. The period of noncompliance, including exact dates and times and/or the anticipated time when the noncompliance will cease; and~~

~~c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.~~

~~Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The board may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.~~

~~3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part III F 2 a-c regarding~~

~~each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.~~

~~Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities, or (vi) flooding or other acts of nature.~~

~~The report shall be made to the regional office at (XXX) XXX-XXXX. For reports outside normal working hours, leave a message and this shall fulfill the reporting requirements. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.~~

~~G. Signatory requirements. Any registration statement, report, or certification required by this permit shall be signed as follows:~~

~~1. Registration statement.~~

~~a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~

~~b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).~~

~~c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.~~

~~2. Reports. All reports required by permits and other information requested by the board shall be signed by:~~

~~a. One of the persons described in subdivision 1 a, b, or c of this subsection; or~~

~~b. A duly authorized representative of that person. A person is a duly authorized representative only if:~~

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~~(1) The authorization is made in writing by a person described in subdivision 1 a, b, or c of this subsection; and~~

~~(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).~~

~~(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the department prior to or together with any separate information, or registration statement to be signed by an authorized representative.~~

~~3. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."~~

~~H. Releases in excess of reportable quantities.~~

~~1. This permit does not relieve the permittee of the reporting requirements of 40 CFR Part 117 (1992) and 40 CFR Part 302 (1992). The discharge of hazardous substances or oil in the storm water discharge(s) from a facility shall be prevented or minimized in accordance with the applicable storm water pollution prevention plan for the facility. Where a release containing a hazardous substance in an amount equal to or in excess of a reporting quantity established under either 40 CFR Part 117 (1992) or 40 CFR Part 302 (1992) occurs during a 24-hour period, the storm water pollution prevention plan must be modified within 14 calendar days of knowledge of the release. The modification shall provide a description of the release, the circumstances leading to the release, and the date of the release. In addition, the plan must be reviewed to identify measures to prevent the reoccurrence of such releases and to respond to such releases, and the plan must be modified where appropriate.~~

~~2. Spills. This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill.~~

~~Part IV. MANAGEMENT REQUIREMENTS.~~

~~A. Change in discharge of pollutants.~~

~~1. Any permittee proposing a new discharge shall submit a registration statement at least 30 days prior to commencing erection, construction, or expansion or employment of new processes at any facility. There shall be no construction or operation of said facilities prior to the issuance of a permit.~~

~~2. The permittee shall submit a new registration statement at least 30 days prior to any planned changes, including proposed facility alterations or additions, production increases, or process modifications when:~~

~~a. The planned change to a permitted facility may meet one of the criteria for determining whether a facility is a new source; or~~

~~b. The planned change could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not limited in the permit and to pollutants which are not subject to the notification level requirements in Part IV A 3; or~~

~~c. The planned change may result in noncompliance with permit requirements.~~

~~3. The permittee shall promptly provide written notice of the following:~~

~~a. Any reason to believe that any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":~~

~~(1) One hundred micrograms per liter (100 ug/l);~~

~~(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4 dinitrophenol and for 2-methyl 4, 6 dinitrophenol; and one milligram per liter (1 mg/l) for antimony; or~~

~~(3) The level established in accordance with regulation under § 307(a) of the Clean Water Act and accepted by the board;~~

~~b. Any activity has occurred or will occur which would result in any discharge on a nonroutine or infrequent basis of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following "notification levels":~~

~~(1) Five hundred micrograms per liter (500 ug/l);~~

~~(2) One milligram per liter (1 mg/l) for antimony; or~~

~~(3) The level established by the board.~~

~~Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works; (ii) any~~

~~anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from such treatment works; and (iii) any additional information that may be required by the board.~~

~~B. Treatment works operation and quality control.~~

~~1. Design and operation of facilities and/or treatment works and disposal of all wastes shall be in accordance with the registration statement filed with the department and in conformity with the conceptual design, or the plans, specifications, and/or other supporting data accepted by the board. The acceptance of the treatment works conceptual design or the plans and specifications does not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design and/or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.~~

~~2. All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:~~

- ~~a. At all times, all facilities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters;~~
- ~~b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to insure compliance with the conditions of this permit;~~
- ~~c. Maintenance of treatment facilities shall be carried out in such a manner that the monitoring and limitation requirements are not violated; and~~
- ~~d. Collected solids shall be stored and disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.~~

~~C. Adverse impact.~~

~~The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.~~

~~D. Duty to halt, reduce activity or to mitigate.~~

- ~~1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.~~
- ~~2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of~~

~~this permit which has a reasonable likelihood of adversely affecting human health or the environment.~~

~~E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.~~

~~F. Bypassing. Any bypass ("bypass" means intentional diversion of waste streams from any portion of a treatment works) of the treatment works herein permitted is prohibited unless:~~

~~1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall notify the department promptly at least 10 days prior to the bypass. After considering its adverse effects the board may approve an anticipated bypass if:~~

~~a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.); and~~

~~b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. However, if a bypass occurs during normal periods of equipment downtime, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.~~

~~2. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the department as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in Part IV F-1 above and in light of the information reasonably available to the permittee at the time of the bypass.~~

~~G. Conditions necessary to demonstrate an upset. A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology-based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:~~

- ~~1. That an upset occurred and that the cause can be identified;~~

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~~2. The facility permitted herein was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;~~

~~3. The permittee submitted a notification of noncompliance as required by Part III F; and~~

~~4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.~~

~~H. Compliance with state and federal law.—Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.~~

~~Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.~~

~~I. Property rights.—The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.~~

~~J. Severability.—The provisions of this permit are severable.~~

~~K. Duty to register.—If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 120 days prior to the expiration date of this permit.~~

~~L. Right of entry.—The permittee shall allow, or secure necessary authority to allow, authorized state and federal representatives, upon the presentation of credentials:~~

~~1. To enter upon the permittee's premises on which the establishment, treatment works, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;~~

~~2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;~~

~~3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;~~

~~4. To sample at reasonable times any waste stream, discharge, process stream, raw material or byproduct; and~~

~~5. To inspect at reasonable times any collection, treatment, or discharge facilities required under this permit.~~

~~For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained~~

~~herein shall make an inspection time unreasonable during an emergency.~~

~~M. Transferability of permits.—This permit may be transferred to another person by a permittee if:~~

~~1. The current permittee notifies the department 30 days in advance of the proposed transfer of the title to the facility or property;~~

~~2. The notice to the department includes a written agreement between the existing and proposed new permittee containing a specific date of transfer of permit responsibility, coverage and liability between them; and~~

~~3. The department does not within the 30 day time period notify the existing permittee and the proposed permittee of the board's intent to modify or revoke and reissue the permit.~~

~~Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.~~

~~N. Public access to information.—Any secret formulae, secret processes, or secret methods other than effluent data submitted to the department may be claimed as confidential by the submitter pursuant to § 62.1-44.21 of the Code of Virginia. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "secret formulae, secret processes or secret methods" on each page containing such information. If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the Virginia Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia) and § 62.1-44.21 of the Code of Virginia.~~

~~Claims of confidentiality for the following information will be denied:~~

~~1. The name and address of any permit applicant or permittee; and~~

~~2. Registration statements, permits, and effluent data.~~

~~Information required by the registration statement may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.~~

~~O. Permit modification.—The permit may be modified when any of the following developments occur:~~

~~1. When a change is made in the promulgated standards or regulations on which the permit was based;~~

~~2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Clean Water Act (USC 33 § 1251 et seq.); or~~

~~3. When the level of discharge of a pollutant not limited in the permit exceeds applicable Water Quality Standards or the level which can be achieved by technology based treatment requirements appropriate to the permittee.~~

~~P. Permit termination. After public notice and opportunity for a hearing, the general permit may be terminated for cause.~~

~~Q. When an individual permit may be required. The board may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:~~

- ~~1. The discharger(s) is a significant contributor of pollution;~~
- ~~2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a general permit;~~
- ~~3. The discharge violates the terms or conditions of this permit;~~
- ~~4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;~~
- ~~5. Effluent limitation guidelines are promulgated for the point sources covered by this permit; or~~
- ~~6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.~~

~~This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.~~

~~R. When an individual permit may be requested. Any permittee operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to a permittee the applicability of this general permit to the individual permittee is automatically terminated on the effective date of the individual permit. When a general permit is issued which applies to a permittee already covered by an individual permit, such permittee may request exclusion from the provisions of the general permit and subsequent coverage under an individual permit.~~

~~S. Civil and criminal liability. Except as provided in permit conditions on "bypassing" (Part IV F) and "upset" (Part IV G), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.~~

~~T. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be~~

~~subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.~~

~~U. Unauthorized discharge of pollutants. Except in compliance with this permit, it shall be unlawful for any permittee to:~~

- ~~1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or~~
- ~~2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.~~

PART III.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individuals who performed the sampling or measurements;
 - c. The dates and times analyses were performed;
 - d. The individuals who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain (i) records of all monitoring information including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, (ii) copies of all reports required by this permit, and (iii) records of all data used to complete the registration statement for this permit for a period of at least three years from the date of the sample, measurement, report or request for coverage. This

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period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit, or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them

detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part III F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part III F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse affects on aquatic life and the known number of fish killed. The permittee shall reduce the report to writing and shall submit it to the department within five days of discovery of the discharge in accordance with Part III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subdivision:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part III I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part III I 2.

NOTE: The immediate (within 24 hours) reports required in Parts III G, H and I may be made to the department's regional office by telephone or by fax. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statements. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes (i) the chief executive officer of the agency or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports, etc. All reports required by permits, and other information requested by the board shall be signed by a person described in Part III K 1, or by a duly

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authorized representative of that person. A person is a duly authorized representative only if:

a. The authorization is made in writing by a person described in Part III K 1;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part III K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part III K 2 shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit. All permittees with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part III U), and "upset" (Part III V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the

permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Parts III U 2 and U 3.

2. Notice.

a. *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Part III I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part III U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part III U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly

signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part III I; and

d. The permittee complied with any remedial measures required under Part III S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. *Inspection and entry.* The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy at reasonable times any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. *Permit actions.* Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part III Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and

Final Regulations

incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

Standard Methods for the Examination of Water and Wastewater, 18th Edition 1992, American Public Health Association

2. As an alternative to transfers under Part III Y 1, this permit may be automatically transferred to a new permittee if:

a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part III Y 2 b.

Z. Severability. The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.

9 VAC 25-193-80. Evaluation of chapter and petitions for reconsideration or revision.

A. Within three years after July 9, 1997, the department shall perform an analysis on this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter, (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner, (iii) an assessment of the effectiveness of this chapter, (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this chapter which are more stringent than federal requirements, and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter, or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

B. The board shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this chapter.]

VA.R. Doc. No. R97-528; Filed May 21, 1997, 10:59 a.m.

Documents Incorporated by Reference

Standard Industrial Classification Manual, 1987, Office of Management and Budget.

VA.R. Doc. No. R97-528, Filed May 21, 1997, 10:59 a.m.

DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER DIVISION
PERMIT APPLICATION FEE

INSTRUCTIONS

Applicants for individual Virginia Pollutant Discharge Elimination System (VPDES), Virginia Pollution Abatement (VPA), Virginia Water Protection (VWP), Surface Water Withdrawal (SWW), and Ground Water Withdrawal (GWW) Permits are required to pay permit application fees except farming operations engaged in production for market. Fees are also required for registration for coverage under General Permits except for the general permits for sewage treatment systems with discharges of 1,000 gallons per day (GPD) or less and for Corrective Action Plans for leaking underground storage tanks. Except for VWP permits, fees must be paid when applications for permit issuance, reissuance or modification are submitted. Applicants for VWP permits will be notified by the DEQ of the fee due. Applications will be considered incomplete if the proper fee is not paid and will not be processed until the fee is received.

The permit fee schedule can be found on the back of this form. Fees for permit issuance or reissuance and for permit modification are included. Once you have determined the fee for the type of application you are submitting, complete this form. The white and yellow copies of the form and your check or money order payable to "Commonwealth of Virginia-DEQ" should be mailed to the Department of Environmental Quality, Receipts Control, P.O. Box 10150, Richmond, VA 23240. The pink copy of the form and a copy of your check or money order should accompany the permit application. The gold copy is for your records. Please direct any questions regarding this form or fee payment to the DEQ Office to which you are submitting your application.

APPLICANT NAME: _____ SSN/FIN: _____

ADDRESS: _____ DAYTIME PHONE: (____) _____
Area Code

FACILITY/ACTIVITY NAME: _____

LOCATION: _____

TYPE OF PERMIT APPLIED FOR
(from Fee Schedule): _____

TYPE OF ACTION: _____ New Issuance _____ Reissuance _____ Modification

AMOUNT OF FEE SUBMITTED
(from Fee Schedule): _____

EXISTING PERMIT NUMBER (if applicable): _____

DEQ OFFICE TO WHICH APPLICATION SUBMITTED (check one)

- Abingdon/SWRO Bridgewater/VRO Kilmarnock/KO Prince William/NRO
 Richmond/PRO Richmond/Headquarters Roanoke/WCRO Virginia Beach/TRO

FOR DEQ USE ONLY

Date: _____
DC #:

White and Yellow Copies - DEQ Accounting Office
Pink Copy - DEQ Regional or Permit Program Office
Gold Copy - Applicant

FEE SCHEDULE-APPLICATIONS FOR INDIVIDUAL PERMITS
EXCEPT FOR VIRGINIA WATER PROTECTION PERMITS
(DUE WITH SUBMISSION OF APPLICATION)

TYPE OF PERMIT	ISSUANCE/ REISSUANCE	MODIFICATION
VPDES Industrial Major	\$8,000	\$4,000
VPDES Municipal Major	\$7,100	\$3,550
VPDES Municipal Storm Water	\$7,100	\$3,550
VPDES Industrial Minor, No Standard Limits	\$3,400	\$1,700
VPDES Industrial Minor, Standard Limits	\$2,200	\$1,100
VPDES Industrial Storm Water	\$2,400	\$1,200
VPDES Municipal Minor, 100,000 GPD or More	\$2,500	\$1,250
VPDES Municipal Minor, More than 10,000 GPD but Less than 100,000 GPD	\$2,000	\$1,000
VPDES Municipal Minor, More than 1,000 GPD but 10,000 GPD or Less	\$1,800	\$ 900
VPDES Municipal Minor, 1,000 GPD or Less	\$1,400	\$ 700
VPA Industrial Wastewater Operation	\$3,500	\$1,750
VPA Industrial Sludge Operation	\$2,500	\$1,250
VPA Municipal Wastewater Operation	\$4,500	\$2,250
VPA Municipal Sludge Operation	\$2,500	\$1,250
GWW Initial Permit for an Existing Withdrawal	\$ 400	\$ 200
GWW Permit for a New or Expanded Withdrawal	\$2,000	\$1,000
SWW Certificate for an Existing Withdrawal	\$2,000	\$1,000
SWW Permit for a New or Expanded Withdrawal	\$3,000	\$1,500

FEE SCHEDULE-APPLICATIONS FOR INDIVIDUAL VIRGINIA WATER PROTECTION PERMITS
(APPLICANT WILL BE NOTIFIED OF FEE DUE BY DEQ)

TYPE OF PERMIT	ISSUANCE/ REISSUANCE	MODIFICATION
VWP Category I Project	\$3,000	\$1,500
VWP Category II Project	\$2,100	\$1,050
VWP Category III Project	\$ 800	\$ 400
VWP Waiver	\$ 300	\$ 150

FEE SCHEDULE-REGISTRATION FOR GENERAL PERMIT COVERAGE

The maximum fee for registration for general permit coverage is \$200. The specific amount of the fee depends on the amount of time the general permit will remain in effect. Please contact the DEQ Office to which registration materials are to be submitted for assistance in determining the amount of the fee due.

STATE CORPORATION COMMISSION

AT RICHMOND, MAY 9, 1997

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. PUC970009

Ex Parte: Implementation of
IntraLATA Toll Dialing Parity
pursuant to the provisions of
47 U.S.C. § 251(b)(3)

ORDER ESTABLISHING REQUIREMENTS AND CONDITIONALLY APPROVING PLANS

Section 251(b)(3) of the Telecommunications Act of 1996 ("the Act"), 47 U.S.C. § 251(b)(3), requires all local exchange telecommunications carriers to furnish dialing parity to competing providers of exchange and toll telephone services.

On August 8, 1996, the Federal Communications Commission ("FCC") issued its Second Report and Order and Memorandum Opinion Order in CC Docket No. 96-98, In the matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 ("Dialing Parity Order"). The Dialing Parity Order establishes an implementation timetable for local exchange carriers ("LECs") to provide intraLATA and interLATA dialing parity no later than February 8, 1999. In addition, the Dialing Parity Order requires LECs, including Bell Operating Companies ("BOCs"), to provide intraLATA toll dialing parity in a state coincident with the provision of interLATA toll service within that state. However, a grace period was granted to LECs that provide interLATA toll services prior to August 8, 1997. These LECs are not required to implement intraLATA toll dialing parity until August 8, 1997.

Further, the Dialing Parity Order requires LECs to submit to the appropriate state commission their plans for implementing toll dialing parity in that state. The FCC stated in its Order that the states were best able to evaluate the LECs' implementation plans. The FCC ordered, at ¶ 38, that any toll dialing parity

plan must contain detailed implementation information, including the proposed date for dialing parity implementation for that [sic] exchange that the LEC operates in each state, and the method it proposes for enabling customers to select alternative providers of telephone service. For a LEC other than a BOC, the plan also must identify the LATA with which the LEC proposes to associate.

On May 28, 1996, GTE South, Inc. ("GTE") filed a proposed implementation schedule and tariffs for intraLATA equal access service. On December 4, 1996, Bell Atlantic-Virginia, Inc. ("BA-VA"), United Telephone-Southeast, Inc., Central Telephone Company of Virginia, ("United/Centel"), TCG Virginia, Inc. ("TCG") and MFS Intelenet of Virginia, Inc. ("MFS") filed intraLATA toll dialing plans pursuant to the requirements of the FCC Dialing Parity Order. On December 6, 1996, GTE filed a revised implementation schedule pursuant to the requirements of that Order. In

addition, dialing parity plans were filed by Citizens Telephone Cooperative ("Citizens") on February 27, 1997, CFW Telephone Company ("CFW") on April 14, 1997, and R&B Telephone Company on April 22, 1997.

Pursuant to the Commission's order of February 6, 1997, the Division of Communications published newspaper notice inviting comments about the implementation of dialing parity on or before February 28, 1997. That order directed that any reply comments be filed on or before March 10, 1997, and a Staff report be submitted on or before April 2, 1997. Initial comments were received from two individuals generally supporting intraLATA competition and from seven carriers; i.e., GTE, United/Centel, MFS, Virginia Telecommunications Industry Association, Cox Fibernet Commercial Services, Inc. ("Cox"), AT&T, and MCI. Reply comments were submitted by BA-VA, GTE, United/Centel, and Cox.

The LEC's plans, comments and replies were summarized and evaluated in the Staff report filed April 2, 1997. Comments were invited concerning the Staff report and were received from BA-VA, GTE, United/Centel, AT&T, MCI, Citizens, and CFW.

Having considered the Act, the FCC's Dialing Parity Order, the Staff report, and comments and replies filed herein, the Commission has determined that intraLATA dialing parity should be implemented in the manner proposed by the Staff with one exception. As recommended by the Staff, the Commission has determined that recovery for a LEC's intraLATA equal access incremental costs shall be shared proportionately among intraLATA providers on the basis of total intraLATA minutes. However, we will allow the intraLATA market to develop for one year before a LEC may begin cost recovery, instead of the 90 to 180 days recommended by the Staff. In addition, GTE and United/Centel are provided with a limited waiver for carrier notification and shall provide at least 30 days notice to carriers prior to implementing intraLATA equal access by end office in order to meet their proposed implementation schedules. The Commission adopts the remainder of the Staff report's recommendations including establishing an administrative procedure for filing and reviewing subsequent LEC intraLATA dialing plans. Attachment 1 sets forth the minimum standards and other guidelines the LECs must follow in implementing intraLATA presubscription in Virginia. Accordingly,

IT IS THEREFORE ORDERED THAT:

(1) LECs shall implement their dialing parity plans in accordance with the requirements stated above and in Attachment 1 appended hereto.

(2) Conditioned upon modifications to comply with Attachment 1 and other specific Staff recommendations, the plans submitted by GTE, United/Centel, BA-VA, MFS, and TCG are approved.

(3) The plans of CFW, Citizens Telephone Cooperative, and R&B Telephone Company and other plans submitted hereafter will be evaluated as an administrative procedure by

the Division of Communications. Any such filings must conform to the minimum requirements set out in Attachment 1.

(4) This Order and Attachment 1 shall be sent forthwith to the Registrar of Regulations for appropriate publication in the Virginia Register.

(5) This case is continued generally.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to each local exchange telephone company operating in Virginia as set out in Appendix A attached hereto; each certificated interexchange carrier operating in Virginia as set out in Appendix B attached hereto; the Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; Jean Ann Fox, Vice President, Virginia Citizens Consumer Council, 114 Coachman Drive, Yorktown, Virginia 23693; Sheryl Butler, Esquire, Office of the Judge Advocate General, Department of the Army, 901 North Stuart Street, Room 400, Arlington, Virginia 22203-1837; Ronald B. Mallard, Director, Department of Consumer Affairs, County of Fairfax, 12000 Government Center Parkway, Fairfax, Virginia 22035; Mr. Charles R. Smith, Hello, Inc., 2315 West Broad Street, Richmond, Virginia 23220; James C. Roberts, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia 23218-1122; the Commission's Office of General Counsel; and the Commission's Divisions of Communications, Public Utility Accounting, and Economics and Finance.

Attachment 1
Guidelines and Minimum Standards for
LEC IntraLATA Toll Dialing Parity Plans
Case No. PUC970009

1. Presubscription

A full 2-PIC method will be utilized by the LEC. This allows customers to presubscribe to different carriers for their intraLATA and interLATA toll calling. The Commission may consider other presubscription methodologies upon motion of any party or its own motion.

2. Carrier Selection Procedures

Allocating and balloting customers for intraLATA toll presubscription is not required. A LEC may retain its existing customers that do not affirmatively choose to change intraLATA toll carriers. A LEC, however, may not automatically assign intraLATA service for new customers to itself or to the customer's preferred interLATA carrier.

3. Customer Notification

A LEC must provide customer notice of the availability of intraLATA equal access in their exchange area at least 30 days prior to implementation. The LEC shall submit a copy of its proposed customer notice to the Commission Staff and IXCs in Virginia at least 30 days prior to the proposed mailing to customers. The Staff will evaluate such notice and its format through its administrative capacity.

4. Carrier Notification

A LEC shall provide at least 60 days notice to IXCs prior to implementing intraLATA equal access by end office.

5. PIC Grace Period

A LEC shall provide an initial grace period for existing customers to choose an intraLATA carrier without a charge. A minimum period of 90 days is established from the LEC's implementation of intraLATA equal access for an existing customer's free PIC. A LEC may propose a longer PIC grace period.

6. PIC Freeze

A LEC may provide an intraLATA PIC freeze option to requesting customers once intraLATA equal access has been implemented. A LEC shall not market or actively offer such an intraLATA PIC freeze in the first 90 days after intraLATA equal access conversion.

7. LEC Filings

A LEC shall file its intraLATA dialing plan with the Division of Communications at least 90 days prior to the proposed implementation date, and at least 30 days prior to the start of any notice interval. At the same time, the LEC shall also provide a copy of its plan to the Attorney General and certificated IXCs in Virginia. The LEC shall include its proposed implementation schedule with this filing.

8. Cost Recovery

A LEC may recover its appropriately determined incremental cost of implementing intraLATA presubscription. Any cost recovery mechanism to allocate cost between carriers should be based on total intraLATA minutes and recovered on a per minute of use basis.

A LEC shall file with the Commission Staff a cost recovery plan, including cost information and other necessary supporting documentation, no later than 270 days after it has completed intraLATA presubscription. At the same time, copies must be provided to the Attorney General and to IXCs in Virginia. This plan will become effective one year from such completion date. A LEC's cost recovery plan shall include a proposed recovery period and an annual true-up procedure.

9. Waivers

The Commission may waive or amend any of these requirements as it deems necessary consistent with the public interest and the requirements of the Telecommunication's Act of 1996.

10. General

A LEC shall offer intraLATA toll dialing parity to carriers on a competitively neutral basis and in a nondiscriminatory manner.

VA.R. Doc. No. R97-531; Filed May 21, 1997, 10:36 a.m.

State Corporation Commission

BUREAU OF INSURANCE

May 9, 1997

ADMINISTRATIVE LETTER 1997 - 4

TO: All Insurers Licensed to Write Life Insurance or Annuities in Virginia

RE: Equity Indexed Annuities
Equity Indexed Life Insurance Products

The Bureau of Insurance (the "Bureau"), has received a number of Equity Indexed Annuity and Equity Indexed Life Insurance products, under which policy values are linked to the performance of an investment index, such as the Standard & Poor's 500. While we have a number of concerns with these products, primarily relating to reserving for the indexed portion of the product, we recognize the importance and popularity of the product in the marketplace today. Therefore, the Bureau is taking action to approve pending submissions, and will accept new form filings of these products, subject to the following:

All submissions of equity indexed products, as herein defined, must be accompanied by an affidavit signed by an executive officer of the company. An affidavit form is attached to and made part of this administrative letter. Equity indexed products will be reviewed for compliance with all applicable statutory and regulatory requirements and will be approved accordingly, subject to inclusion of the completed affidavit. The Bureau will consider this approval to be temporary, extending only until the effective date of a regulation addressing equity indexed products. Upon the effective date of such a regulation, companies must comply with the provisions of the regulation.

The Bureau will give prompt reconsideration to pending submissions of equity indexed products upon receipt of the completed affidavit form.

Please refer any questions regarding the affidavit form **IN WRITING** to:

Joseph D. Jeffrey
Supervisor
State Corporation Commission
Bureau of Insurance - Financial Regulation Division
Post Office Box 1157
Richmond, Virginia 23218

Questions relating to form filings and approvals may be directed **IN WRITING** to:

Jacqueline K. Cunningham
Supervisor
State Corporation Commission
Bureau of Insurance - Life and Health Division
Post Office Box 1157
Richmond, Virginia 23218

/s/ Alfred W. Gross
Commissioner of Insurance

AFFIDAVIT

Company Name: _____ (Insurer)

NAIC Number: _____ State of Domicile: _____

RE: Form Number(s)

In connection with the filing of the captioned forms with the Commonwealth of Virginia State Corporation Commission Bureau of Insurance, I, an officer of the above-named company, the Insurer, represent that each of the captioned forms identifies a product, herein referred to as "equity indexed products," in which all or a portion of the policy value accumulates at a rate which is based on an investment index; and, on behalf of the Insurer, I certify to each of the following:

1. The Insurer is in good standing and holds an active license as a life, or life and health, insurer in its state of domicile and in the Commonwealth of Virginia.

2. The Insurer is authorized and appropriately licensed in its state of domicile to underwrite and offer for sale in its state of domicile the products described in the captioned forms and herein referred to as "equity indexed products"; and as evidence of such authority confirms with a check mark (✓) the applicability of one or more of the following:

___ The Insurer is a foreign insurer that has been authorized by its domiciliary regulator specifically for "equity indexed products."

___ The Insurer is a foreign insurer and its domiciliary regulator has approved one or more of the captioned forms or a similar form for use in the sale of substantially the same product in its domiciliary state.

___ The Insurer is a foreign insurer that is currently marketing equity indexed products in its state of domicile.

___ The Insurer is domiciled in Virginia and has been granted licensing authority specifically to sell variable annuities or variable life insurance.

___ The Insurer is domiciled in Virginia and attaches and files with this affidavit the following: (i) a plan of operation for the issuance of "equity indexed products" which has been approved by the Board of Directors, (ii) a general description of the products offered and to be offered, (iii) a description of any investment advisory services which may be used to underwrite or market these products; and (iv) a statement of the insurer's actuary describing the mortality, disintermediation, investment and expense risks which the Insurer will bear under these products.

3. The sale of equity indexed products is and will in the future be fully disclosed, in conformity with NAIC annual statement instructions, in the annual statements filed by the Insurer with the Commission, the NAIC, and with the Insurer's state of domicile, and also in quarterly statements filed with the Insurer's state of domicile;

State Corporation Commission

4. The Insurer is required by its state of domicile to file annually a statement of actuarial opinion prepared by a qualified actuary and setting forth his or her opinion relating to policy reserves and other actuarial items in the insurer's general AND separate accounts; a copy of the most recently filed statement of actuarial opinion has been filed also with the Commission; and, further, such statement included an asset adequacy analysis that conforms with the rules set forth in 14 VAC 5-310-80; and memoranda complying with 14 VAC 5-310-90 shall be available to the Commission, upon request, for each of the years in which an equity indexed product is offered for sale or delivery or is in force in the Commonwealth of Virginia; and

5. The Insurer has reviewed the rules and regulations issued by the Commission concerning the reserving, sale and distribution of life insurance and annuity products and represents that its practices with respect to the products identified in the captioned forms do now and will in the future conform to the requirements of such rules and regulations and the underlying statutes, and with respect particularly to each of the captioned forms, believes all terms are properly defined and an understandable description of the basis by which policy values accumulate has been included.

As an officer of the Insurer, I am authorized to agree, and hereby agree on behalf of the Insurer, to the following:

- 1. I acknowledge and agree that any approval extended by the Bureau of Insurance to the form(s) identified above is temporary, pending the promulgation of regulations specifically governing these products in Virginia, and that it may be necessary to revise and refile the above form(s) for approval in Virginia at that time.
2. Should the promulgation of such regulations in Virginia require the revision and refile of the above form(s), policy owners of any such forms issued from the date of approval of this submission until the effective date of such regulations shall be offered, in writing and with full written disclosure of the nature and effect thereof upon the policy, such policy amendments or endorsements as may be necessary to conform such previously issued forms with any applicable requirements in such regulations that may be retrospective in application. Such amendments or endorsements shall be offered to the policy owners at no additional cost to such policy owners, and subject to the written consent of such policy owners.

_____, being duly sworn according to law, deposes and says that he/she executed the above instrument and that the statements contained therein are true and correct to the best of his/her knowledge and belief.

Subscribed and sworn to before me this ___ day of _____, 19__.

Notary Public

(S E A L)

My Commission Expires: _____

VA.R. Doc. No. R97-524; Filed May 19, 1997, 11:10 a.m.

Signature

Date

Print Name

Title

Notarial Acknowledgment

State of _____

County/City of _____

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

DEPARTMENT OF SOCIAL SERVICES

Title of Regulation: 22 VAC 40-705-10 et seq. Child
Protective Services.

Governor's Comment:

I have reviewed the proposed regulation on a preliminary basis. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to this regulation based on the information and public comment available.

/s/ George Allen

Governor

Date: May 14, 1997

VA.R. Doc. No. R97-525; Filed May 19, 1997, 11:09 a.m.

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-196-10 et seq. General
Virginia Pollutant Discharge Elimination System (VPDES)
Permit for Cooling Water Discharges.

Governor's Comment:

I have reviewed this proposed regulation on a preliminary basis. It is mandated by federal and state law. While I reserve the right to take action under the Administrative Process Act during the final adoption period, I have no objection to the proposed regulation based on the information and public comment currently available.

/s/ George Allen

Governor

Date: May 19, 1997

VA.R. Doc. No. R97-532; Filed May 21, 1997, 10:30 a.m.

GENERAL NOTICES/ERRATA

Symbol Key

† Indicates entries since last publication of the *Virginia Register*

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Cotton Referendum

A referendum subject to the *Code of Virginia*, §§ 3.1-1081 through 3.1-1103 will be conducted by mail ballot among Virginia cotton growers who produced at least one bale of cotton in the Commonwealth from July 1, 1996, through June 30, 1997 (the fiscal year preceding the referendum).

The purpose of this referendum is to present the following question: Do you favor additional research concerning; education on and promotion of the growth and use of cotton; the creation of a Virginia Cotton Board; and the levy of an assessment of \$.85 per bale of cotton sold in the Commonwealth to support additional research concerning education on and promotion of the growth and use of cotton?

The assessment will be deducted by the "handler" which means the first purchaser of cotton from a producer. The first purchaser is usually the operator of a cotton gin. The assessment levied thereon shall be remitted to the Virginia Department of Taxation for deposit in the Virginia Cotton Fund which is administered by the Virginia Cotton Board.

Referendum notices and voter certification forms will be mailed to producers on June 9, 1997. Producers must establish voting eligibility by properly completing and returning a certification form to the Virginia Department of Agriculture and Consumer Services no later than noon on July 9, 1997. Those cotton producers who are residents of Virginia and who produced one bale of cotton within the Commonwealth during July 1, 1996, through June 30, 1997, the fiscal year preceding the referendum, are eligible to vote. Such certified voters in this referendum must meet further eligibility requirements by providing their full name, address, and, if applicable, the title of the producer if a partner or corporate officer; the name and locality of each handler, usually the ginner, of that producer's cotton in the fiscal year preceding the referendum; and any other information deemed necessary by the Commissioner of the Virginia Department of Agriculture and Consumer Services.

Eligible voters will be mailed a ballot and return envelope on August 12, 1997. Each eligible voter must return the ballot in the official referendum envelope that must be received no later than noon, September 2, 1997, by the Director, Division of Marketing, at his office at the Virginia Department of Agriculture and Consumer Services.

Producers who do not receive certification forms in the mail may obtain eligibility certification forms from the following sources: the Virginia Cotton Growers Association, Inc., P. O. Box 27552, Richmond, VA 23261; the Virginia Farm Bureau Federation, P. O. Box 27522, Richmond, VA, 23261; the Virginia Department of Agriculture and Consumer Services,

Room 1002, Washington Building, 1100 Bank Street, Richmond, VA 23219; or from an extension office in a locality of the Commonwealth in which cotton is grown.

DEPARTMENT OF GAME AND INLAND FISHERIES

Solicitation of Public Comments on Proposed Regulations

The Board of Game and Inland Fisheries has proposed amendments to the trout fishing regulation (4 VAC 15-330-10 et seq.) and is soliciting public comment on the proposals. The board is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia) and Executive Order Number 13 (94) in promulgating wildlife management regulations, including the length of seasons, bag limits and methods of take set on the wildlife resources within the Commonwealth of Virginia. It is required by § 9-6.14:22 of the Code of Virginia to publish all proposed and final regulations.

Under Board of Game and Inland Fisheries procedures, regulatory amendments occur over two sequential meetings. At the May 5, 1997, meeting of the board, Department of Game and Inland Fisheries' staff presented recommendations for regulatory amendments, and the board solicited and heard comments from the public in a public hearing. The board then proposed the regulation amendments which are published in the "Proposed Regulations" section of this issue of the *Virginia Register*. The proposed regulations, or a summary, will also be advertised in newspapers. Adoption of any final amendment takes place at a subsequent board meeting to be held Thursday and Friday, July 17-18, 1997, in Richmond, the address will be announced in a later notice.

Under board procedures, the following opportunities for public involvement have been or will be provided:

- *First public hearing.* A public hearing was held, as described above, at the May 5, 1997, board meeting. This is the first of the two sequential board meetings, and the one at which the board proposed the regulation amendments.
- *Second public hearing.* A public hearing will be held at the July 17-18, 1997, board meeting. This is the second of the two board meetings, and the one at which the board adopts final regulations.
- *Supplemental public hearing.* The board has directed that an additional public hearing, or "public input meeting," be held between the first and the second board meetings. The meeting was scheduled to be held on Wednesday, May 28, 1997, at Dabney Lancaster

General Notices/Errata

Community College, Armory Building, Route 60 West, Dabney Lane, Clifton Forge, Virginia.

• *Public comment period.* A public comment period on the proposed regulation amendments opened at the time the board proposed the amendments at its May 5 meeting, and will run until July 17, or the second board meeting. However, in order to be assured that comments submitted are included in the board's briefing materials, the comments need to be received by the department no later than July 10, 1997, or seven days prior to the second board meeting. In order to be taken into consideration, comments submitted: (i) must be in writing; (ii) must be accompanied by the name, address and telephone number of the party offering the comments; (iii) should state the regulatory action desired; and (iv) should state the justification for the desired action. Comments submitted during the public comment period should be mailed to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230.

• *Ongoing public comment.* The department also receives and accepts comments on a continuous basis from members of the public, outside of the specified public comment period. The public comment period described above is an additional provision to facilitate public involvement in specific proposed regulations.

DEPARTMENT OF HEALTH

† Sewerage Regulations—Additional Comment Period

The State Board of Health published two Notices of Intended Regulatory Action in the September 6, 1993, issue of the Virginia Register, on page 4836. The first such notice announced the board's intention to consider repealing the Sewerage Regulations, 12 VAC 5-580-10 et seq. (VR 355-17-02). The second such notice announced the board's intention to consider developing a set of regulations titled the Sewage Collection and Treatment Regulations. The combined effect of these concurrent intended regulatory actions would involve updating the design standards for sewage collection systems and sewage treatment works in Virginia.

The board is announcing that it is soliciting, and will welcome until 5 p.m. on July 10, 1997, additional comments on the two notices published on August 23, 1993. Comments should be addressed to C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, 1500 East Main Street, Room 109, Richmond, VA 23219, telephone (804) 786-1755 or FAX (804) 786-5567.

Maternal and Child Health Block Grant Application Fiscal Year 1998

The Virginia Department of Health will transmit to the federal Secretary of Health and Human Services by July 15, 1997, the Maternal and Child Health Services Block Grant Application for the period October 1, 1997, through September 30, 1998, in order to be entitled to receive payments for the purpose of providing maternal and child health services on a statewide basis. These services include:

- Preventive and primary care services for pregnant women, mothers and infants up to age one
- Preventive and primary care services for children and adolescents
- Family-centered, community-based, coordinated care and the development of community-based systems of services for children with special health care needs

The Maternal and Child Health Services Block Grant Application makes assurance to the Secretary of Health and Human Services that the Virginia Department of Health will adhere to all the requirements of § 505, Title V-Maternal and Child Health Services Block Grant of the Social Security Act, as amended. To facilitate public comment, this notice is to announce a period from May 29 through June 28, 1997, for review and public comment on the block grant application. Copies of the document will be available as of May 29, 1997, in the office of the director of each county and city health department. Individual copies of the document may be obtained by contacting Janice M. Hicks, PH.D., at the following address. Written comments must be received by June 28, 1997, and addressed to Dr. Janice Hicks, Virginia Department of Health, Office of Family Health Services, 1500 East Main Street, Suite 104, Richmond, VA 23219, telephone (804) 371-0478 or FAX (804) 692-0184.

DEPARTMENT OF MINES, MINERALS AND ENERGY

† Proposed Settlement—DMLR v. Lone Mountain Processing, Inc.

The Department of Mines, Minerals and Energy announces its intent to recommend that the Governor of Virginia approve a proposed settlement in the case styled *DMLR v. Lone Mountain Processing, Inc.* This case was filed January 30, 1997, in the circuit court of Lee County, Virginia.

The details of the settlement that the Department of Mines, Minerals and Energy intends to recommend the Governor approve are found in a draft court order signed by Lone Mountain Processing Inc. that is available from Michael D. Abbott, Department of Mines, Minerals and Energy, U.S. Route 23 South, Big Stone Gap, Virginia 24219, telephone (540) 523-8100.

Written comments from the public will be accepted by Mr. Abbott through 5 p.m. on July 11, 1997. Any inquiries about this settlement should be directed to Mr. Abbott.

A copy of the order may be obtained in person or by mail from the above office.

**BOARD FOR WASTE MANAGEMENT FACILITY
OPERATORS**

**† Enforcement Action
Proposed Consent Special Order Amendment
Augusta County School Board**

Public Notice Inviting Comments on Regulations

The Virginia Board for Waste Management Facility Operators invites written comments from the public on its regulations entitled Waste Management Facility Operators Regulations, 18 VAC 155-20-10 et seq. (formerly VR 674-01-02), and Board for Waste Management Facility Operators Public Participation Guidelines, 18 VAC 155-10-10 et seq. (formerly VR 674-01-01), concerning the effectiveness and continued need for the regulations. The board will carefully consider comments received to determine if it is necessary to make revisions to the existing regulations.

The State Water Control Board proposes to enter into a Consent Special Order Amendment with the Augusta County School Board. The school board owns and operates a wastewater treatment system at Cassell Elementary School, and was originally subject to a Consent Special Order with a schedule to replace the existing system with a drainfield. The school board has since determined that upgrading the system would be more cost effective than conversion to a drainfield. Under the terms of this amended order, the school board is given a schedule to construct dechlorination and ammonia removal facilities.

Please direct your comments to David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 West Broad Street, 5th Floor, Richmond, VA 23230. Copies of the regulations and further information may be obtained from Thomas Perry or Adrienne Mayo at (804) 367-8595. Comments must be received no later than June 30, 1997.

The board will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, and should refer to the Consent Special Order.

Holders of Waste Management Facility Operator Certifications which have been renewed once are reminded that they must complete 10 hours of CPE during the term of their expiring certification and send documentation of same to the above address in order to be eligible to renew their certification.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801. A copy of the order may be obtained in person or by mail from this office.

STATE WATER CONTROL BOARD

**† Enforcement Action
Proposed Consent Special Order
Town of Alberta**

**† Enforcement Action
Proposed Consent Special Order
Charlotte County School Board**

The State Water Control Board proposes to issue a Consent Special Order to the Town of Alberta to bring the town's wastewater treatment plant into compliance with its VPDES permit. The proposed order requires Alberta to properly staff the wastewater treatment plant, submit an operations and maintenance plan, complete a list of needed repairs, provide ammonia sample results to DEQ, comply with the ammonia limit in the VPDES permit, and provide metals sampling results to DEQ.

The State Water Control Board proposes to issue a Consent Special Order to the Charlotte County School Board for the annex located on State Route 20. The proposed order allows the school board to install an on-site subsurface wastewater disposal system at the annex to replace the existing wastewater treatment system. The school board is required to operate the current system in compliance with the VPDES permit until the new system is in operation; and to submit an approvable closure plan for the current wastewater treatment system.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive notice written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

General Notices/Errata

† Enforcement Action Proposed Consent Special Order Charlottesville Oil Company

The State Water Control Board proposes to take an enforcement action against Charlottesville Oil Company (the company). The company has agreed to settle the matter of petroleum contamination from its underground storage tanks (USTs) at the following sites: Advance Mills, Maupin Brothers, Midas/Rt. 29 North and the Trading Post in Albemarle Co.; Stanardsville Chevron and Snow's General Merchandise in Greene Co.; Ferncliff Market and Miller's Store in Louisa Co.; Gordonsville Gulf, Haney's Gulf/Delk Trailer Park in Orange Co. Under the order, the company agrees to bring these sites into compliance with state law, including all remediation requirements.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the Special Order until close of business on July 9, 1997. Comments should be addressed to Amy Thatcher Clarke, Office of Enforcement, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240 and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality's Central Office, Office of Enforcement, 629 East Main Street, Richmond Virginia. A copy of the order may be obtained in person or by mail from the above offices.

† Enforcement Action Proposed Consent Special Order Town of Clover

The State Water Control Board proposes to issue a Consent Special Order to the Town of Clover. The proposed order places the town on a schedule to submit two payments of \$1,000 each to complete the submittal of the VPDES permit application for the town's wastewater treatment plant.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

† Enforcement Action Proposed Consent Special Order Elliott's Auto Sales

The State Water Control Board proposes to issue a Consent Special Order to Elliott's Auto Sales located in Halifax County. The proposed order authorizes Elliott's to operate the car wash which discharges to state waters until a general permit becomes available. The order requires Elliott's to

comply with the limits, monitoring requirements and maintain best management practices for the one-bay car wash until the general permit is issued.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

Enforcement Action Proposed Special Order City Of Fairfax

The State Water Control Board proposes to issue a Consent Special Order to the City of Fairfax (permittee) regarding the permittee's water treatment plant (WTP) located in Loudoun County, Virginia.

The WTP is subject to VPDES Permit No. VA0002666, a condition of which requires that the permittee develop and submit to the Department of Environmental Quality (DEQ) for approval an Operations and Maintenance (O&M) Manual which includes a solids handling and disposal plan. The order allows the WTP to operate under an approved interim plan until the permittee submits a final plan on or before July 31, 1996. The permittee has agreed to the issuance of the order.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through June 30, 1997. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia, 22193. Please write or visit the Woodbridge address, or call (703) 583-3886 in order to examine or to obtain a copy of the order.

Enforcement Action Proposed Special Order King George County Service Authority Dahlgren District Wastewater Treatment Plant

The State Water Control Board proposes to issue a Consent Special Order to King George County Service Authority regarding the Dahlgren District Wastewater Treatment Plant (Dahlgren WWTP) located in King George County, Virginia.

The Dahlgren WWTP is subject to VPDES Permit No. VA0026514. The order provides, among other things, that the owner submit plans and specifications for upgrading and expanding the WWTP, a plan and schedule for upgrading or repairing the WWTP's collection system, and a sludge management plan. The owner has agreed to the issuance of the order and to payment of a civil charge.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through June 30, 1997. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia, 22193. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to examine or to obtain a copy of the order.

**† Enforcement Action
Proposed Special Orders
Hale Refrigeration, Inc.
Car Wash Facility
Max Meadows Elementary School
Ft. Chiswell High School
Factory Merchants Mall
Tazewell County Public Sewage Authority
Falls Mills Sewage Treatment Plant**

The State Water Control Board proposes to take an enforcement action against the above listed facilities. Under the terms of the proposed Special Orders, the owner of these facilities have agreed to be bound by the terms and conditions of effluent limitations and monitoring and reporting requirements contained in individual appendices within the respective orders. The requirements contained in the orders bring the facilities into compliance with state law and will protect water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the Special Orders until June 30, 1997. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, Virginia 24212 and should refer to the Consent Special Order by facility.

The proposed orders may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, Virginia, at the same address. Copies of the individual orders may be obtained in person or by mail from the above office.

**† Enforcement Action
Proposed Consent Special Order
Town of Halifax**

The State Water Control Board proposes to issue a Consent Special Order to the Town of Halifax. The proposed order requires the town to complete a site-specific evaluation study by May 30, 1997, to determine the environmental effects of the town's water treatment plant's wastewater discharge to state waters. The results of the study will be submitted to DEQ to determine whether revised VPDES permit limits are appropriate for the plant's wastewater discharge. After the appropriate limits have been determined, the town will be required to construct the necessary facilities in order to comply with the determined limits.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

**† Enforcement Action
Proposed Consent Special Order
IIHS Vehicle Safety Research Center**

The State Water Control Board proposes to enter into a Consent Order with IIHS Vehicle Safety Research Center. The company has agreed to the terms of a Consent Special Order to comply with the terms of VPDES Permit No. VA0087416 after its expiration and until the State Water Control Board issues a general car wash industry permit or a new individual permit. IIHS agrees that it will not construct new facilities or begin new processes before notifying the Department of Environmental Quality. IIHS has also agreed to register for a general permit within 30 days of availability.

The board will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801. A copy of the order may be obtained in person or by mail from this office.

**† Enforcement Action
Proposed Consent Special Order
Mr. Herbert V. Kelley D/B/A Pine Street Apartments**

The State Water Control Board proposes to issue a Consent Special Order to Mr. Herbert V. Kelley d/b/a Pine Street Apartments which are located near the Town of Wakefield. The proposed order places the owner on a schedule to make repairs, replace parts and practice proper operation and maintenance procedures in order to bring the apartments' wastewater treatment plant into compliance with its VPDES permit limits. If the plant does not achieve compliance with the permit limits by July 1, 1997, the owner is required to proceed with plans to connect the wastewater discharge from the apartments to the Black Swamp Regional Wastewater Treatment Plant's sewer collection system within 90 days of availability. The owner is also required to submit a plan and schedule for closure of the plant. In addition, the order requires a payment of \$5,000 in civil charges to settle past violations of the VPDES permit.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments

General Notices/Errata

relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from the above office.

**† Enforcement Action
Proposed Consent Special Order Amendment
Town of Mineral**

The State Water Control Board proposes to take an enforcement action against the Town of Mineral. The town has agreed to the terms of a Consent Special Order Amendment to address violations of the State Water Control Law and regulations and its wastewater treatment facility. Under the terms of the order, the town has agreed to connect to the Louisa County Regional Wastewater Treatment Facility and close its existing plant.

The board will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801. A copy of the order may be obtained in person or by mail from this office.

**† Enforcement Action
Proposed Consent Special Order
Shenmont Farms**

The State Water Control Board proposes to take an enforcement action against Shenmont Farms. The company has agreed to the terms of a Consent Special Order to resolve a violation of the State Water Control Law and regulations at its facility in Rockingham County, Virginia. The order recites corrective action taken by Shenmont Farms to prevent future unpermitted discharges of liquid animal waste to Waggy's Run (also known as Union Springs Run). Further, Shenmont Farms has also voluntarily agreed, without admitting liability, to pay a stated sum to the Department of Environmental Quality in settlement of the violation.

The board will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801. A copy of the order may be obtained in person or by mail from this office.

**Enforcement Action
Proposed Special Order
Town Of Orange
Water Treatment Plant**

The State Water Control Board proposes to issue a Consent Special Order to the Town of Orange (owner) regarding its water treatment plant (WTP) located in Orange, Virginia.

The WTP is subject to VPDES Permit No. VA0053121. The order provides that the owner submit plans, specifications and a schedule for constructing a wastewater treatment unit at the WTP. The owner has agreed to the issuance of the order and to payment of a civil charge.

On behalf of the board, the Department of Environmental Quality's Northern Virginia Regional Office will receive written comments relating to the order through June 30, 1997. Please address comments to Elizabeth Anne Crosier, Northern Virginia Regional Office, Department of Environmental Quality, 13901 Crown Court, Woodbridge, Virginia, 22193. Please write or visit the Woodbridge address, or call (703) 583-3886, in order to examine or to obtain a copy of the order.

**† Enforcement Action
Proposed Consent Special Order
Tidewater Quarries Company**

The State Water Control Board proposes to issue a Consent Special Order to Tidewater Quarries Company located on Turkey Island in Henrico County. The proposed order requires Tidewater Quarries to submit an operations and maintenance manual addressing actions preventing future unpermitted discharges to state waters. The order also requires the submittal of a closure plan for the quarry. In addition, the order requires the payment of a \$5,000 civil charge for the unpermitted discharge of solids to state waters.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from this office.

**† Enforcement Action
Proposed Consent Special Order
Tyson Foods, Inc.**

The State Water Control Board proposes to take an enforcement action against Tyson Foods, Inc. The company has agreed to the terms of a Consent Special Order to resolve a violation of the State Water Control Law and regulations at its facility in Harrisonburg, Virginia. The order recites corrective action taken by Tyson to prevent future

unpermitted discharges of ammonia to Black's Run. Further, Tyson has also voluntarily agreed to pay a stated sum to the Virginia Department of Game and Inland Fisheries for the cost of replacing fish in Black's Run.

The board will receive written comments relating to the proposed Consent Special until July 9, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P. O. Box 1129, Harrisonburg, Virginia, 22801, and should refer to the Consent Special Order.

The proposed Order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, Virginia 22801. A copy of the order may be obtained in person or by mail from this office.

**† Enforcement Action
Proposed Consent Special Order
Virginia Metalcrafters, Inc.**

The State Water Control Board proposes to enter into a Consent Special Order with Virginia Metalcrafters, Inc. The company has agreed to the terms of an order to address contamination of stormwater discharged to an unnamed tributary of the South River. Under the terms of the order, the company has agreed to enclose the area around its dust collectors, retest the stormwater discharge for toxicity, and conduct a bioassay. If the toxicity is not eliminated, the company will be required to institute additional corrective measures. The company will also complete a study of stormwater flows in the drainage basin and critical flows in the receiving stream to allow accurate evaluation of the VPDES permit's toxicity limit. Finally, the company will conduct metals testing on stormwater outfalls that do not exhibit toxicity, and complete the mapping of the stormwater flows to all outfalls.

The board will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Elizabeth V. Scott, Department of Environmental Quality, P.O. Box 1129, Harrisonburg, VA 22801, and should refer to the Consent Special Order.

The proposed order may be examined at the Department of Environmental Quality, Valley Regional Office, 4411 Early Road, Harrisonburg, VA 22801. A copy of the order may be obtained in person or by mail from this office.

**† Enforcement Action
Proposed Consent Special Order Amendment
Town of Wakefield**

The State Water Control Board proposes to issue a Consent Special Order Amendment to the Town of Wakefield. The proposed order requires the town to submit plans and specifications for connection of the town's wastewater treatment plant to the Black Swamp Regional Wastewater Treatment Plant within 90 days of availability and to submit

plans and specifications for closure of the town's wastewater treatment plant to be implemented after connection. In addition, it provides interim effluent limits for BOD5 and TSS.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from this office.

**† Enforcement Action
Proposed Consent Special Order
Mr. Joseph Ziadeh**

The State Water Control Board proposes to issue a Consent Special Order to Mr. Joseph Ziadeh who owns property located in Powhatan County. The proposed order requires Mr. Ziadeh to address the unauthorized activities which include the construction of a temporary road crossing, channelization, dredging, placement of fill material, and sediment and erosion problems which occurred during the development of his property. In addition, the order requires the submittal of the appropriate permit application(s) to authorize any further activity and the payment of a \$2,100 civil charge.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed Consent Special Order until July 9, 1997. Comments should be addressed to Cynthia Akers, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, Virginia 23060-6295. A copy of the order may be obtained in person or by mail from this office.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219. You may FAX in your notice; however, we ask that you FAX two copies and do not follow up with a mailed copy. Our FAX number is: (804) 692-0625.

Forms for Filing Material on Dates for Publication in *The Virginia Register of Regulations*

All agencies are required to use the appropriate forms when furnishing material and dates for publication in *The Virginia Register of Regulations*. The forms may be obtained from: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591.

General Notices/Errata

Internet: Forms and other *Virginia Register* resources may be printed or downloaded from the *Virginia Register* web page: <http://legis.state.va.us/codecomm/regindex.htm>

FORMS:

NOTICE of INTENDED REGULATORY ACTION - RR01
NOTICE of COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE of MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE OBJECTIONS
- RR08

ERRATA

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Title of Regulation: 22 VAC 40-705-10 et seq. Child Protective Services.

Publication: 13:17 VA.R. 1970-1984 May 12, 1997.

Correction to Substance Statement:

Page 1971, column 2, line 5, after "4. Predispositional Consultation" insert "/State Hearing"

Page 1971, column 2, number 4, paragraph 3, line 1, after "During the" delete "predispositional conference" and insert "state hearing"

Correction to Proposed Regulation:

Page 1976, column 1, 22 VAC 40-705-30 C, line 3, delete "regiment" insert "regimen"

CALENDAR OF EVENTS

Symbol Key

- † Indicates entries since last publication of the *Virginia Register*
♿ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the *Virginia Register* deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

BOARD FOR ACCOUNTANCY

June 20, 1997 - 9 a.m. -- Open Meeting

July 11, 1997 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

A meeting of the three-member Regulatory Review Committee to further discuss regulatory review. This is a work session and no other business will be discussed at this meeting. All meetings are subject to cancellation. The meeting time is subject to change. Call the board at least 24 hours in advance of the meeting. No public comment will be held. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

† July 21, 1997 - 9 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia.♿
(Interpreter for the deaf provided upon request)

An open meeting to discuss regulatory review, committee reports, disciplinary cases and other matters requiring board action. All meetings are subject to cancellation. The meeting time is subject to change. Call the board at least 24 hours in advance of the meeting. No public comment will be held. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The

department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Board for Accountancy, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Virginia Horse Industry Board

June 10, 1997 - 10 a.m. -- Open Meeting

Virginia Cooperative Extension--Charlottesville/Albemarle Unit, 168 Spotnap Road, Lower Level Meeting Room, Charlottesville, Virginia.♿

A meeting to continue to review grant proposals for the current fiscal year and discuss the status of proposed marketing plans and projects. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Andrea S. Heid at least five days before the meeting date so that suitable arrangements can be made.

Contact: Andrea S. Heid, Equine Marketing Specialist/Program Manager, Department of Agriculture and Consumer Services, 1100 Bank St., Room 906, Richmond, VA 23219, telephone (804) 786-5842 or FAX (804) 371-7786.

Virginia Marine Products Board

June 25, 1997 - 6 p.m. -- Open Meeting

Nick's Steak and Spaghetti House, Route 17, Gloucester, Virginia.♿

A meeting to receive reports from the Executive Director of the Virginia Marine Products Board on finance, marketing, past and future program planning, publicity/public relations, and old/new business. The

Calendar of Events

board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Shirley Estes at least five days before the meeting date so that suitable arrangements can be made.

Contact: Shirley Estes, Executive Director, 554 Denbigh Boulevard, Suite B, Newport News, VA 23608, telephone (757) 874-3474 or FAX (757) 886-0671.

Pesticide Control Board

† July 17, 1997 - 9 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Board Room, #204, Richmond, Virginia. ☎

Committee meetings and a general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Dr. Marvin A. Lawson, Program Manager, Office of Pesticide Services, Department of Agriculture and Consumer Services, 1100 Bank St., Room 401, P.O. Box 1163, Richmond, VA 23218, telephone (804) 371-6558 or toll-free 1-800-552-9963.

Virginia Small Grains Board

July 22, 1997 - 8 a.m. -- Open Meeting
Richmond Airport Hilton, 5501 Eubank Road, Sandston, Virginia. ☎

A meeting to hear FY 1996-97 project reports and receive 1997-98 project proposals. The board will allocate funding for FY 1997-98 projects. Additionally, action will be taken on any other new business that comes before the board. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Philip T. Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Virginia Small Grains Board, Washington Bldg., 1100 Bank St., Room 1005, Richmond, VA 23219, telephone (804) 371-6157 or FAX (804) 371-7786.

Virginia Winegrowers Advisory Board

† July 23, 1997 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House room 1, Richmond, Virginia. ☎

The annual meeting of the board to induct new board members and elect officers for the upcoming year. The board will entertain public comment at the conclusion of all other business for a period not to exceed 30 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Mary E. Davis-Barton at least 10 days before the meeting date so that suitable arrangements can be made.

Contact: Mary E. Davis-Barton, Secretary, Virginia Winegrowers Advisory Board, Department of Agriculture and Consumer Services, 1100 Bank St., Room 1010, Richmond, VA 23219, telephone (804) 371-7685.

STATE AIR POLLUTION CONTROL BOARD

June 11, 1997 - 9 a.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street, First Floor, Training Room, Richmond, Virginia.

June 27, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Air Pollution Control Board intends to amend regulations entitled: (i) 9 VAC 5-10-10 et seq. Regulations for the Control and Abatement of Air Pollution: General Definitions, (ii) 9 VAC 5-20-10 et seq. Regulations for the Control and Abatement of Air Pollution: General Provisions, (iii) 9 VAC 5-91-10 et seq. Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area, (iv) 9 VAC 5-120-10 et seq. Regulations for the Control of Emissions from Fleet Vehicles, (v) 9 VAC 5-150-10 et seq. Regulation for Transportation Conformity, and (vi) 9 VAC 5-160-10 et seq. Regulation for General Conformity; and adopt regulations entitled: 9 VAC 5-170-10 et seq. Regulation for General Administration. The proposed regulation contains provisions covering general administration, specifically the applicability, establishment, and enforcement of regulations and orders; the administration of associated hearings and proceedings; the approval of local ordinances; the appeal of board decisions; the right of entry upon public and private property; the approval of items with conditions; the availability of procedural information and guidance; the approval of certain items requiring specific considerations; the availability of information to the public; the delegation of authority; and public participation in regulation development.

Because the provisions of the proposed regulation are intended to replace similar provisions in existing

regulations, those similar provisions will be repealed. The affected provisions are as follows:

Regulations for the Control and Abatement of Air Pollution (9 VAC 5 Chapters 10 and 20)

9 VAC 5-10-20. Terms Defined. The following definitions:

Administrative Process Act, confidential information, consent agreement, consent order, emergency special order, formal hearing, order, party, special order, variance, and Virginia Register Act.

Appendix E Public Participation Procedures

Appendix F Delegation of Authority

9 VAC 5-20-20. Establishment of regulations and orders.

9 VAC 5-20-30. Enforcement of regulations, permits and orders.

9 VAC 5-20-40. Hearings and proceedings.

9 VAC 5-20-50 A. Variances (general).

9 VAC 5-20-60. Local ordinances.

9 VAC 5-20-90. Appeals.

9 VAC 5-20-100. Right of entry.

9 VAC 5-20-110. Conditions on approvals.

9 VAC 5-20-120. Policy and procedural information and guidance.

9 VAC 5-20-130. Delegation of authority.

9 VAC 5-20-140. Considerations for approval actions.

9 VAC 5-20-150. Availability of information.

Regulation for the Control of Motor Vehicle Emissions in the Northern Virginia Area (9 VAC 5 Chapter 91)

9 VAC 5-91-20. Terms Defined. The following definitions:

Administrative Process Act, confidential information, public hearing, variance, and Virginia Register Act.

9 VAC 5-91-40. Establishment of regulations and orders.

9 VAC 5-91-60. Hearings and proceedings.

9 VAC 5-91-80. Variances.

9 VAC 5-91-100. Conditions on approvals.

9 VAC 5-91-110. Procedural information and guidance.

9 VAC 5-91-150. Availability of information.

Regulation for the Control of Emissions from Fleet Vehicles (9 VAC 5 Chapter 120)

9 VAC 5-120-20. Terms Defined. The following definitions:

Administrative Process Act, confidential information, consent agreement, consent order, formal hearing, order, party, public hearing, variance, and Virginia Register Act.

9 VAC 5-120-40. Hearings and proceedings.

9 VAC 5-120-50. Appeal of case decisions.

9 VAC 5-120-60. Variances.

9 VAC 5-120-90. Procedural information and guidance.

9 VAC 5-120-120. Availability of information.

Regulation for Transportation Conformity (9 VAC 5 Chapter 150)

9 VAC 5-150-20. Terms Defined. The following definitions:

Administrative Process Act, confidential information, consent agreement, consent order, emergency special order, formal hearing, order, party, public hearing, special order, variance, and Virginia Register Act.

9 VAC 5-150-50. Establishment of regulations and orders.

9 VAC 5-150-60. Enforcement of regulations and orders.

9 VAC 5-150-70. Hearings and proceedings.

9 VAC 5-150-90. Appeals.

9 VAC 5-150-100. Availability of information.

Regulation for General Conformity (9 VAC 5 Chapter 160)

9 VAC 5-160-20. Terms Defined. The following definitions:

Administrative Process Act, confidential information, consent agreement, consent order, emergency special order, formal hearing, order, party, public hearing, special order, variance, and Virginia Register Act.

Calendar of Events

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| 9 VAC 5-160-50. | Establishment of regulations and orders. | Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600 |
| 9 VAC 5-160-60. | Enforcement of regulations and orders. | |
| 9 VAC 5-160-70. | Hearings and proceedings. | Piedmont Regional Office
Department of Environmental Quality
4900-A Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5020 |
| 9 VAC 5-160-90. | Appeals. | |
| 9 VAC 5-160-100. | Availability of information. | |

Request for Comments: The purpose of this notice is to provide the public with the opportunity to comment on the proposed regulation and the costs and benefits of the proposal.

Localities Affected: There is no locality which will bear any identified disproportionate material air quality impact due to the proposed regulation which would not be experienced by other localities.

Location of Proposal: The proposal, an analysis conducted by the department (including a statement of purpose, a statement of estimated impact and benefits of the proposed regulation, an explanation of need for the proposed regulation, an estimate of the impact of the proposed regulation upon small businesses, identification of and comparison with federal requirements, and a discussion of alternative approaches), and any other supporting documents may be examined by the public at the department's Office of Air Program Development (Eighth Floor), 629 East Main Street, Richmond, Virginia, and the department's regional offices (listed below) between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period.

Southwest Regional Office
Department of Environmental Quality
355 Deadmore Street
Abingdon, Virginia
Ph: (540) 676-4800

West Central Regional Office
Department of Environmental Quality
Executive Office Park, Suite D
5338 Peters Creek Road
Roanoke, Virginia
Ph: (540) 561-7000

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
116 North Main Street
Bridgewater, Virginia 22812
Ph: (540) 828-2595

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Blvd.
Virginia Beach, VA 23462
Ph: (757) 518-2000

Northern Regional Office
Department of Environmental Quality
13901 Crown Court
Woodbridge, Virginia 22193
Ph: (703) 583-3800

Statutory Authority: § 10.1-1308 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Friday, June 27, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P. O. Box 10009, Richmond, Virginia 23240.

Contact: Dr. Kathleen Sands, Policy Analyst, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4413, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

ALCOHOLIC BEVERAGE CONTROL BOARD

June 9, 1997 - 9:30 a.m. -- Open Meeting
June 23, 1997 - 9:30 a.m. -- Open Meeting
Department of Alcoholic Beverage Control, 2901 Hermitage Road, Richmond, Virginia. ☎

A meeting to receive and discuss reports and activities from staff members.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

BOARD FOR ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND LANDSCAPE ARCHITECTS

June 13, 1997 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Mark N. Courtney, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8514 or (804) 367-9753/TDD ☎

VIRGINIA BOARD FOR ASBESTOS LICENSING AND LEAD CERTIFICATION

July 9, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 2, Richmond, Virginia. ☎

A meeting to conduct routine business and review draft amendments prepared by board staff to the Virginia Asbestos Licensing Regulations and the Virginia Lead-Based Paint Activities Regulations. The board will also consider adopting the regulations as proposed regulations for publication and public comment. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† July 17, 1997 - 9:30 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A public hearing to receive comments on the proposed changes to the board's regulations pursuant to Executive Order 15(94). Following the public hearing there will be a general board meeting to adopt the proposed changes to the regulations for publication submittal. Public comment will be heard for 15 minutes prior to the beginning of the meeting.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Legislative/Regulatory Committee

† June 10, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. ☎

A meeting to discuss proposed legislation on support personnel and continuing education. No public comment will be received.

Contact: Senita Booker, Program Support Technician Senior, Board of Audiology and Speech-Language Pathology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7390, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF AVIATION

June 17, 1997 - 3 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A workshop for the board. No formal actions will be taken. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Richmond International Airport, Sandston, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

June 18, 1997 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular bimonthly meeting of the board. Applications for state funding will be presented to the board and other matters of interest to the Virginia aviation community will be discussed. Individuals with disabilities should contact Cindy Waddell 10 days prior to the meeting if assistance is needed.

Contact: Cindy Waddell, Department of Aviation, 5702 Gulfstream Road, Richmond International Airport, Sandston, VA 23250-2422, telephone (804) 236-3625 or (804) 236-3624/TDD ☎

BOARD FOR BARBERS

† August 4, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department at least two weeks prior to the meeting so that suitable arrangements can be made. The

Calendar of Events

department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD ☎

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

† June 16, 1997 - 10 a.m. -- Open Meeting
Virginia Beach Municipal Center, 2449 Princess Anne Road, 2nd Floor, Conference Room 217/218, Virginia Beach, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct general business, including review of local Chesapeake Bay Preservation Area programs. The board will also receive information regarding Virginia Beach's interpretation of the Bay Act. The board will review and discuss proposed amendments to the Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20-10 et seq.), and consider endorsing them for economic impact analysis and public comment. Public comments will be taken early in the meeting.

Contact: Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Dept., 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, toll-free 1-800-243-7229, or (804) 225-3447/TDD ☎

CHILD DAY-CARE COUNCIL

† June 12, 1997 - 10 a.m. -- Open Meeting
Theater Row Building, 730 East Broad Street, Lower Level, Conference Room 1, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The council will meet to discuss issues and concerns that impact child day centers, camps, school age programs, and preschool/nursery schools. Public comment will be received at noon. Please call ahead of time for possible changes in meeting time.

Contact: Rhonda Harrell, Division of Licensing Programs, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1775 or FAX (804) 692-2370.

COMMONWEALTH COMPETITION COUNCIL

† June 23, 1997 - 10 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room B, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss public-private partnership opportunities for 1998-2000 biennium and to elect the chair and vice chairman.

Contact: Peggy Robertson, Commonwealth Competition Council, James Monroe Bldg., 101 N. 14th St., 5th Floor, P.O. Box 1475, Richmond, VA 23218-1475, telephone (804) 786-0240 or FAX (804) 786-1594.

DEPARTMENT OF CONSERVATION AND RECREATION

† June 23, 1997 - 10 a.m. -- Open Meeting
Colonial Farm Credit, 6526 Mechanicsville Turnpike, Mechanicsville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the SWCD Tributary Grant Planning Team.

Contact: Miora Croghan, Manager, Bureau of District and Landowner Assistance, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3958 or FAX (804) 786-1798.

Board of Conservation and Recreation

† June 24, 1997 - 1:30 p.m. -- Open Meeting
Westmoreland State Park, Potomac River Retreat, Route 1, Box 600, Montross, Virginia.

A regular business meeting.

Contact: Leon E. App, Agency Regulatory Coordinator, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-4570 or FAX (804) 786-6141/TDD ☎

Falls of the James Scenic River Advisory Board

† July 10, 1997 - Noon -- Open Meeting
City Hall, 900 East Broad Street, 5th Floor, Planning Commission Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review river issues and programs.

Contact: Richard G. Gibbons, Environmental Program Manager, Department of Conservation and Recreation, Division of Planning and Recreation Resources, 203 Governor St., Suite 326, Richmond, VA 23219, telephone (804) 786-4132, FAX (804) 371-7899, or (804) 786-2121/TDD ☎

BOARD FOR CONTRACTORS

Recovery Fund Committee

June 18, 1997 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A meeting to consider claims against the Virginia Contractor Transaction Recovery Fund. This meeting will be open to the public; however, a portion of the

discussion may be conducted in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Holly Erickson at least two weeks prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Holly Erickson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-8561.

BOARD OF CORRECTIONAL EDUCATION

June 20, 1997 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A monthly meeting to discuss general business.

Contact: Patty Ennis, Board Clerk, Department of Correctional Education, James Monroe Bldg., 101 N. 14th St., 7th Floor, Richmond, VA 23219, telephone (804) 225-3314.

BOARD OF CORRECTIONS

† June 18, 1997 - 10 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss matters which may be presented to the board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Administration Committee

† June 18, 1997 - 8:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss administrative matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Correctional Services Committee

† June 17, 1997 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss correctional services matters which may be presented to the full board.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

Liaison Committee

† June 19, 1997 - 9:30 a.m. -- Open Meeting
Department of Corrections, 6900 Atmore Drive, Board Room, Richmond, Virginia.

A meeting to discuss criminal justice matters.

Contact: Barbara Fellows, Secretary to the Board, Department of Corrections, 6900 Atmore Dr., Richmond, VA 23225, telephone (804) 674-3235 or FAX (804) 674-3130.

BOARD FOR COSMETOLOGY

† July 14, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Karen W. O'Neal. The department fully complies with the Americans with Disabilities Act. Please notify the department of your request at least 10 days in advance.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475 or (804) 367-9753/TDD

CRIMINAL JUSTICE SERVICES BOARD

July 8, 1997 - 10 a.m. -- Public Hearing
The Library of Virginia, 800 East Broad Street, Richmond, Virginia.

July 25, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Criminal Justice Services Board intends to amend regulations entitled: **6 VAC 20-160-10 et seq. Rules Relating to the Court-Appointed Special Advocate Program.** The purpose of the proposed action is to amend the current regulations related to the court-appointed special advocate programs to ensure that they are in support of and consistent with the mission and growth of the program in Virginia.

Statutory Authority: §§ 9-173.6 and 9-173.8 of the Code of Virginia.

Contact: Fran Ecker, Section Chief, Juvenile Services Unit, Criminal Justice Services Board, 805 E. Broad St., 10th Floor, Richmond, VA 23219, telephone (804) 786-3967 or FAX (804) 371-8981.

Calendar of Events

BOARD OF DENTISTRY

June 13, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A formal panel of the board will convene to conduct a formal hearing. The informal conference committee will meet at 11 a.m. to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD

June 20, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the informal conference committee to hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD

Advertising Committee

June 27, 1997 - 8 a.m. -- Open Meeting
Holiday Inn Dulles, 1000 Sully Road, Sterling, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss disciplinary cases on advertising. The informal conference committee will hear disciplinary cases beginning at 1 p.m. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD

DEPARTMENT OF ENVIRONMENTAL QUALITY

† **June 17, 1997 - 7 p.m.** -- Public Hearing
Municipal Building, 215 Church Avenue, S.W., City Council Chambers, Room 450, Roanoke, Virginia.

A public hearing to receive comments on the proposed reissuance of a permit for storage and management of hazardous waste for the Ashland Chemical Company Facility in Roanoke.

Contact: Richard Criqui, Department of Environmental Quality, Office of Permitting Management, Waste Division,

P.O. Box 10009, Richmond, VA 23240, telephone (804) 689-4013.

Work Group on Ammonia, Mercury, Lead and Copper with Respect to Water Quality Standards

June 19, 1997 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Conference Room 505, Richmond, Virginia.

The department has established a work group on four topics with respect to the water quality standards program: mercury, ammonia, lead, and copper. The work group will, upon completion, advise the Director of Environmental Quality. Other meetings of the work group have been tentatively scheduled for July 17, August 21, September 18, and October 16, 1997. Persons interested in the meetings should confirm meeting date, time and location with the contact person below.

Contact: Alan J. Anthony, Chairman, Work Group on Ammonia, Mercury, Lead and Copper, 629 E. Main St., P.O. Box 10009, Room 205, Richmond, VA 23240-0009, telephone (804) 698-4114, FAX (804) 698-4522, or toll-free 1-800-592-5482.

Small Business Environmental Compliance Advisory Board

June 9, 1997 - 10 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A regular meeting.

Contact: Richard Rasmussen, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 629-4394.

FIRE SERVICES BOARD

June 20, 1997 - 9 a.m. -- Open Meeting
South Boston Fire Company, 1503 Seymore Drive, Activity Building, South Boston, Virginia.

A business meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire/EMS Education and Training Committee

June 19, 1997 - 10:30 a.m. -- Open Meeting
Council Chambers, 502 Yancy Street, South Boston, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire Prevention and Control Committee

June 19, 1997 - 8:30 a.m. -- Open Meeting
Council Chambers, 502 Yancy Street, South Boston, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Legislative/Liaison Committee

June 19, 1997 - 2 p.m. -- Open Meeting
Council Chambers, 502 Yancy Street, South Boston, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Sprinkler Committee

June 18, 1997 - 2 p.m. -- Open Meeting
Council Chambers, 502 Yancy Street, South Boston, Virginia.

A meeting to discuss residential sprinklers. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

June 12, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A general board meeting. Public comments will be received at the beginning of the meeting for 15 minutes.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

June 13, 1997 - 11 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Richmond, Virginia. ☎

A meeting of the Regulatory and By-laws Committees. Public comments will be received at the beginning of the meeting for 15 minutes.

Contact: Elizabeth Young Tisdale, Executive Director, Board of Funeral Directors and Embalmers, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9907, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF GAME AND INLAND FISHERIES (BOARD OF)

† **July 17, 1997 - 9 a.m. -- Open Meeting**
† **July 18, 1997 - 9 a.m. -- Open Meeting**
Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

The board will meet and (i) approve the department's 1997-1998 operating and capital budgets; (ii) adopt webless migratory game bird and September resident Canada goose seasons based on frameworks provided by the U. S. Fish and Wildlife Service; and (iii) address amendments to the trout fishing regulation (4 VAC 15-330-150 and 4 VAC 15-330-170) proposed at its May 5, 1997, meeting which would remove the portion of the Jackson River from Gathright Dam downstream to the Westvaco Dam at Covington in Allegheny County from the list of trout streams on which catch and release, artificial lures only trout fishing is allowed; and would make it unlawful to creel or possess trout on this portion of the Jackson River. The board will determine whether the proposed regulation amendments will be adopted as final regulations. The board will solicit comments from the public during the public hearing portion of the meeting, at which time any interested citizen present shall be heard. The board reserves the right to adopt final amendments which may be more liberal than, or more stringent than the regulations currently in effect, or the regulation amendments proposed at the May 5, 1997, board meeting, as necessary for the proper management of wildlife resources. General and administrative issues may be discussed by the board. The board may hold an executive session before the public session begins on July 17. If the board completes its entire agenda on July 17, it may not convene on July 18, the second of the scheduled two days of the meeting.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 West Broad St., Richmond, VA 23230, telephone (804) 367-1000 or FAX (804) 367-2427.

Calendar of Events

DEPARTMENT OF GENERAL SERVICES

Design-Build/Construction Management Review Board

† June 20, 1997 - 10 a.m. -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. 

A meeting of the board to review proposed guidelines and procedures and review any projects which may have been submitted.

Contact: Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD 

DEPARTMENT OF HEALTH (STATE BOARD OF)

June 18, 1997 - 7 p.m. -- Public Hearing
Vinton War Memorial Building, 814 East Washington Avenue, Vinton, Virginia.

June 19, 1997 - 7 p.m. -- Public Hearing
James City County Administration Building, Board of Supervisors, Meeting Room, Kings Mill Offices, Mounts Bay Road, Williamsburg, Virginia.

June 20, 1997 - 7 p.m. -- Public Hearing
Spotsylvania County, Board of Supervisors, Meeting Room, 9105 Courthouse Road, Spotsylvania, Virginia.

July 14, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: **12 VAC 5-585-10 et seq. Biosolids Use Regulations.** The proposed amendments have been recommended by the Regulations Advisory Committee in response to the public comments received on certain provisions of the regulations subjected to an additional comment period (published in the Virginia Register on July 10, 1995). These amendments address three trace element concentration values and the requirements for reporting on distribution or marketing of exceptional quality biosolids. Additional amendments are being proposed that address nutrient management, land application rates, monitoring frequency, submission of reports, Class III treatment standards, and certain technical clarifications.

Statutory Authority: § 32.1-164.5 of the Code of Virginia.

Contact: C. M. Sawyer, Division Director, Department of Health, Office of Water Programs, 1500 E. Main St., Room 109, Richmond, VA 23219, telephone (804) 786-1755, FAX (804) 786-5567 or (804) 371-2891, or e-mail csawyer@vdh.state.va.us

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

NOTE: CHANGE IN MEETING TIME

June 9, 1997 - Noon -- Open Meeting
State Council of Higher Education, James Monroe Building, 101 North 14th Street, Council Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A general business meeting. The council's committees will meet in the morning. For more information and specific committee meeting times, contact the council.

Contact: Michael McDowell, Director of Public Information, State Council of Higher Education, James Monroe Bldg., 101 N. 14th St., 9th Floor, Richmond, VA 23219, telephone (804) 225-2637 or FAX (804) 786-0572.

VIRGINIA HIGHER EDUCATION TUITION TRUST FUND

† June 30, 1997 - 9:30 a.m. -- Open Meeting
† July 21, 1997 - 9:30 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, 3rd Floor, Richmond, Virginia. 

A regular meeting.

Contact: Diana F. Cantor, Executive Director, Virginia Higher Education Tuition Trust Fund, James Monroe Building, 101 N. 14th St., 5th Floor, Richmond, VA 23219, telephone (804) 786-0719, toll-free 1-888-567-0540 or 1-800-253-0737/TDD 

VIRGINIA HIV PREVENTION COMMUNITY PLANNING COMMITTEE

June 13, 1997 - 8:30 a.m. -- Open Meeting
June 14, 1997 - 8:30 a.m. -- Open Meeting
Holiday Inn Crossroads, 2000 Staples Mill Road, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to continue HIV prevention planning for Virginia.

Contact: Elaine G. Martin, Coordinator, STD/AIDS Education, Bureau of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-0877 or toll-free 1-800-533-4148.

HOPEWELL INDUSTRIAL SAFETY COUNCIL

July 1, 1997 - 9 a.m. -- Open Meeting
August 5, 1997 - 9 a.m. -- Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia.  (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

August 5, 1997 - 9 a.m. -- Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ♿ (Interpreter for the deaf provided upon request)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Services Coordinator, 300 N. Main St., Hopewell, VA 23860, telephone (804) 541-2298.

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

† **June 23, 1997 - 10 a.m.** -- Open Meeting
Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, First Floor Board Room, Richmond, Virginia. ♿

A regular monthly business meeting of the Board of Housing and Community Development. Public comment will be received.

Contact: Stephen W. Calhoun, CPA, Manager, Department of Housing and Community Development, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7015, FAX (804) 371-7090, or (804) 371-7089/TDD ♿

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **June 17, 1997 - 11 a.m.** -- Open Meeting
Virginia Housing Development Authority, 601 South Belvidere Street, Richmond, Virginia. ♿

A regular meeting of the Board of Commissioners to (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) consider for approval amended and restated Rules and Regulations for Multi-Family Housing Developments and amended and restated Rules and Regulations for Administration of Rent Reduction Tax Credits; (iv) review the authority's operations for the prior month; and (v) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 782-1986.

VIRGINIA INTERAGENCY COORDINATING COUNCIL

June 11, 1997 - 9 a.m. -- Open Meeting
Henrico Area Mental Health/Mental Retardation Services, 10299 Woodman Road, Glen Allen, VA 23060. ♿ (Interpreter for the deaf provided upon request)

The Virginia Interagency Coordinating Council meets quarterly to advise and assist the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services as lead agency for Part H (of IDEA), early intervention for infants and toddlers with disabilities and their families. Discussion focuses on issues related to Virginia's implementation of the Part H program.

Contact: Nicole Corey, Part H Office Services Specialist, Department of Mental Health, Mental Retardation and Substance Abuse Services, Early Intervention 10th floor, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 786-3710 or FAX (804) 371-7959.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

June 30, 1997 - 1 p.m. -- Open Meeting
The Library of Virginia, Conference Room A, First Floor, 800 East Broad Street, Richmond, Virginia. ♿

A regular meeting to discuss such matters as may be presented.

Contact: Adele MacLean, Secretary, Advisory Commission on Intergovernmental Relations, 805 E. Broad St., Room 702, Richmond, VA 23219-1924, telephone (804) 786-6508, FAX (804) 371-7999, or (804) 786-6508/TDD ♿

STATE BOARD OF JUVENILE JUSTICE

June 11, 1997 - 10 a.m. -- Public Hearing
Department of Juvenile Justice, 700 East Franklin Street, Board Room, Richmond, Virginia.

June 13, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Juvenile Justice intends to repeal regulations entitled: 6 VAC 35-40-10 et seq. Pre-Dispositional and Post-Dispositional Group Home Standards; 6 VAC 35-70-10 et seq. Standards for Juvenile Correctional Centers; 6 VAC 35-90-10 et seq. Standards for Post-Dispositional Confinement for Secure Detention and Court Service Units; 6 VAC 35-100-10 et seq. Standards for Secure

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Detention; and 6 VAC 35-120-10 et seq. Standards for Family Group Homes; and adopt regulations entitled: 6 VAC 35-140-10 et seq. Standards for Juvenile Residential Facilities. The proposed regulation revises and replaces existing regulations governing secure detention homes, post-dispositional confinement in secure detention, pre-dispositional and post-dispositional group home, family group homes and juvenile correctional centers. Additional new standards in the proposed regulation address juvenile boot camps, work camps, independent living programs and juvenile industries projects.

Statutory Authority: §§ 16.1-309.9 and 66-10 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

June 13, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Juvenile Justice intends to amend regulations entitled: **6 VAC 35-60-10 et seq. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs.** The proposed amendments will simplify and streamline operating requirements for Virginia's offices on youth, reducing mandates to encourage local autonomy and flexibility, and defining a closer working relationship between offices on youth and court service units.

Statutory Authority: §§ 66-10, 66-27 and 66.28 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

June 11, 1997 - 10 a.m. -- Public Hearing
Department of Juvenile Justice, 700 East Franklin Street, Board Room, Richmond, Virginia.

June 13, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Juvenile Justice intends to **repeal** regulations entitled: **6 VAC 35-80-10 et seq. Holdover Standards; 6 VAC 35-110-10 et seq. Standards for Court Services in Juvenile and Domestic Relations Courts; and 6 VAC 35-130-10 et**

seq. Standards for Outreach Detention; and adopt regulations entitled: **6 VAC 35-150-10 et seq. Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts.** The proposed regulation replaces existing standards for court service units, standards for outreach detention, and holdover standards. In addition, this regulation and the proposed Consolidated Standards for Juvenile Residential Facilities will replace standards for post-dispositional confinement for secure detention and court service units.

Statutory Authority: §§ 16.1-233, 16.1-309.9 and 66-10 of the Code of Virginia.

Contact: Donald Carignan, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre Building, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

June 11, 1997 - 9 a.m. -- Open Meeting
700 Centre Building, 700 East Franklin Street, 4th Floor, Richmond, Virginia. ♿

Board committees meet at 9 a.m. to hear reports on secure and nonsecure programs. The full board meets at 10 a.m. to approve certifications of residential programs and nonresidential services, receive public comments on proposed regulations, and take up such other matters as are brought before it.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 371-0743 or FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

Migrant and Seasonal Farmworkers Board

June 11, 1997 - 10 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the board.

Contact: Patti C. Bell, Board Administrator, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 225-3083, FAX (804) 371-8418, or (804) 786-2376/TDD ♿

LIBRARY BOARD

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss matters related to The Library of Virginia and its board.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Archival and Information Services Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss archival and information services at The Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Automation and Networking Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss automation and networking matters.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Executive Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss matters related to The Library of Virginia and its board.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Facilities Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss matters pertaining to the new Library of Virginia building, the status of the records center, and the former Library of Virginia facility.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Legislative and Finance Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss legislative and financial matters.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Nominating Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to finalize nominations for consideration for the slate of officers for The Library of Virginia Board.

Contact: Jean H. Taylor, Secretary to the State Librarian, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Publications and Education Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss matters related to the Publications and Educational Services Division and The Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Public Library Development Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss matters pertaining to public library development and The Library of Virginia.

Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

Records Management Committee

June 16, 1997 - Time to be announced -- Open Meeting
June 17, 1997 - Time to be announced -- Open Meeting
Location to be announced.

A meeting to discuss matters pertaining to records management.

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Contact: Jean H. Taylor, Secretary to the State Librarian, The Library of Virginia, 800 E. Broad St., Richmond, VA 23219-1905, telephone (804) 692-3535.

VIRGINIA MANUFACTURED HOUSING BOARD

† **June 18, 1997 - 11 a.m.** -- Open Meeting
Pano's Restaurant, Harrisonburg, Virginia.  (Interpreter for the deaf provided upon request)

A regular monthly meeting of the board.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD 

MARINE RESOURCES COMMISSION

June 24, 1997 - 9:30 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Newport News, Virginia.  (Interpreter for the deaf provided upon request)

The commission will hear and decide marine environmental matters at 9:30 a.m.; permit applications for projects in wetlands, bottom lands, coastal primary sand dunes and beaches; appeals of local wetland board decisions; policy and regulatory issues. The commission will hear and decide fishery management items at approximately noon. Items to be heard are as follows: regulatory proposals, fishery management plans; fishery conservation issues; licensing; shellfish leasing. Meetings are open to the public. Testimony will be taken under oath from parties addressing agenda items on permits and licensing. Public comments will be taken on resource matters, regulatory issues and items scheduled for public hearing. The commission is empowered to promulgate regulations in the areas of marine environmental management and marine fishery management.

Contact: LaVerne Lewis, Secretary to the Commission, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607-0756, telephone (757) 247-2261, toll-free 1-800-541-4646 or (757) 247-2292/TDD 

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

June 17, 1997 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. 

A meeting of the board to discuss medical assistance services policy and to take action on issues pertinent to the board.

Contact: Cynthia Klisz, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099 or FAX (804) 371-4981.

HJR 630 Study Task Force

NOTE: CHANGE IN MEETING LOCATION
June 19, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia.

A meeting to (i) initiate the 1997 House Joint Resolution 630 study on the practice of therapeutic interchange of dissimilar drug products, (ii) organize the task force, and (iii) develop work goals and time lines.

Contact: David B. Shepherd, R.Ph., Pharmacy Supervisor, Pharmacy Unit, Division of Program Operations, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2773 or FAX (804) 786-0414.

Pharmacy Liaison Committee

June 9, 1997 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. 

A meeting to discuss Medicaid pharmacy issues.

Contact: David B. Shepherd, R.Ph., Pharmacy Supervisor, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2773.

BOARD OF MEDICINE

Informal Conference Committee

† **June 26, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

† **June 26, 1997 - 9:30 a.m.** -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

June 27, 1997 - 9:30 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

The Informal Conference Committee, composed of three members of the board, will inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine and other healing arts in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 A 7 and A 15 of the Code of Virginia. Public comment will not be received.

Contact: Karen W. Perrine, Deputy Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-7693, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

June 19, 1997 - 10 a.m. -- Open Meeting
Henrico Community Services, 10299 Woodman Road, Glen Allen, Virginia ☎ (Interpreter for the deaf provided upon request)

A tentatively scheduled meeting to discuss the final report to the HJR 240 Legislative Subcommittee.

Contact: Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23236, telephone (804) 786-6431 or FAX (804) 371-0092.

† **June 26, 1997 - 10 a.m.** -- Open Meeting
Fairfax County Government Center, 12000 Government Center Parkway, Rooms 4 and 5, Fairfax, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss the Region Two input into the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive State Plan for 1998-2004.

Contact: Bill Armistead, Senior Planner, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-5671, FAX (804) 371-0092, or (804) 371-8977/TDD ☎

† **June 27, 1997 - 10 a.m.** -- Open Meeting
Region 10 Community Services Board, 800 Preston Avenue, Charlottesville, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss the Region One input into the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive State Plan for 1998-2004.

Contact: Bill Armistead, Senior Planner, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-5671, FAX (804) 371-0092, or (804) 371-8977/TDD ☎

† **July 2, 1997 - 10 a.m.** -- Open Meeting
Best Western Hotel, 1501 Tyler Avenue, Radford, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss the Region Three input into the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive State Plan for 1998-2004.

Contact: Bill Armistead, Senior Planner, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-5671, FAX (804) 371-0092, or (804) 371-8977/TDD ☎

† **July 3, 1997 - 10 a.m.** -- Open Meeting
Henrico Area Mental Health and Retardation Services Board, 10299 Woodman Road, Glen Allen, Virginia. (Interpreter for the deaf provided upon request)

A meeting to discuss the Region Four input into the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services' Comprehensive State Plan for 1998-2004.

Contact: Bill Armistead, Senior Planner, Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Bldg., 109 Governor St., Richmond, VA 23219, telephone (804) 786-5671, FAX (804) 371-0092, or (804) 371-8977/TDD ☎

State Human Rights Committee

June 13, 1997 - 9 a.m. -- Open Meeting
Department of Mental Health, Mental Retardation and Substance Abuse Services, James Madison Building, 109 Governor Street, Richmond, Virginia.

A regular meeting of the committee to discuss business and conduct hearings relating to human rights issues. Agenda items are listed for the meeting.

Contact: Kli Kinzie, State Human Rights Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, 109 Governor St., Richmond, VA 23219, telephone (804) 786-3988, FAX (804) 371-2308, toll-free 1-800-451-5544 or (804) 371-8977/TDD ☎

Priority Populations/Case Rate Funding Subcommittee of the Pilot Leadership Team

June 12, 1997 - 10 a.m. -- Open Meeting
Location to be announced.

A meeting to discuss the recommendations of the Pilot Leadership Team and the presentation by Chip Carbone of the Mercer Corporation as the recommendations relate to funding the future system of care and the identification of priority populations. Checklists will be reviewed and plans will be made to field test these instruments.

Contact: Marion Greenfield, Policy Analyst, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23236, telephone (804) 786-6431.

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STATE MILK COMMISSION

† June 18, 1997 - 10 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 4th Floor
West, Conference Room, Richmond, Virginia. ☎ (Interpreter
for the deaf provided upon request)

A regular meeting to (i) discuss industry issues, distributor licensing, Virginia base transfers, Virginia baseholding license amendments, regulations, and fiscal matters and (ii) review reports from the staff of the Milk Commission. The commission may consider other matters pertaining to its responsibilities. Any persons who require accommodations in order to participate in the meeting should contact Edward C. Wilson, Jr., at least five days prior to the meeting date so that suitable arrangements can be made.

Contact: Edward C. Wilson, Jr., Deputy Administrator, State Milk Commission, 200 N. 9th St., Suite 1015, Richmond, VA 23219-3414, telephone (804) 786-2013 or (804) 786-2013/TDD ☎

† June 18, 1997 - 11 a.m. -- Public Hearing
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

August 8, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to repeal regulations entitled: **2 VAC 15-10-10 et seq. Public Participation Guidelines** and adopt regulations entitled: **2 VAC 15-11-10 et seq. Public Participation Guidelines**. The amendments reflect revisions and restatements of prior regulations and agency policy to conform to the Virginia Register Form, Style, and Procedure Manual. The revisions define, clarify, and standardize regulation terms. It also more clearly designates the purpose of the regulation, incorporates procedures for the composition and maintenance of mailing lists of interested parties and the distribution of the same. The amendments include procedures to petition for rulemaking; notices of intended regulatory action; notice of public comment, notices of meetings, and public hearings; and periodic review of regulations. Procedures for the formation and use of ad hoc committees are also included.

Statutory Authority: §§ 3.1-340 and 9-6.14:7.1 of the Code of Virginia.

Contact: Edward C. Wilson, Deputy Administrator, State Milk Commission, 200 N. Ninth St., Suite 1015, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, or (804) 786-2013/TDD ☎

† June 18, 1997 - 11 a.m. -- Public Hearing
State Capitol, Capitol Square, House Room 1, Richmond, Virginia.

August 8, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Milk Commission intends to amend regulations entitled: **2 VAC 15-20-10 et seq. Regulations for the Control, Regulation and Supervision of Virginia Milk Industry**. The proposed amendments will improve the form, style and language through restatements of existing regulations and policy and improve, reduce or eliminate certain regulatory burdens on the Virginia milk industry.

Statutory Authority: § 3.1-340 of the Code of Virginia.

Contact: Edward C. Wilson, Deputy Administrator, State Milk Commission, 200 N. Ninth St., Suite 1015, Richmond, VA 23219, telephone (804) 786-2013, FAX (804) 786-3779, or (804) 786-2013/TDD ☎

VIRGINIA MUSEUM OF FINE ARTS

Executive Committee

June 19, 1997 - Noon -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Auditorium, Richmond, Virginia. ☎

A meeting to ratify the 1997-1998 budget recommended by the Finance Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

June 19, 1997 - 11 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue,
Conference Room, Richmond, Virginia. ☎

A meeting to consider and approve the 1997-1998 budget. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

BOARD OF NURSING

June 13, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Nursing intends to adopt regulations entitled: **18 VAC 90-50-10 et seq. Regulations Governing the Certification of Massage Therapists.** The proposed regulations establish an application process and requirements for certification in accordance with provisions of § 54.1-3029 of the Code of Virginia, fees for administration of the regulatory program, a schedule of renewal and reinstatement, and standards of conduct, which will protect the health, welfare and safety of the citizens of the Commonwealth.

Statutory Authority: §§ 54.1-2400 and 54.1-3005 of the Code of Virginia.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

† **June 20, 1997 - 9:30 a.m.** -- Open Meeting
Department of Social Services, 210 Church Avenue, S.W., Suite 100, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct a formal hearing with a licensee. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943, or (804) 662-7197/TDD

Special Conference Committee

June 9, 1997 - 9 a.m. -- Open Meeting

June 10, 1997 - 9 a.m. -- Open Meeting

† **June 17, 1997 - 9 a.m.** -- Open Meeting

† **June 18, 1997 - 9 a.m.** -- Open Meeting

† **June 19, 1997 - 9 a.m.** -- Open Meeting

Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The committee will conduct informal conferences with licensees or certificate holders or both. Public comment will not be received.

Contact: Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909, FAX (804) 662-9943 or (804) 662-7197/TDD

BOARD OF NURSING HOME ADMINISTRATORS

† **July 9, 1997 - 9:30 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A general board meeting. Public comments will be heard for 15 minutes prior to the meeting.

The Informal Conference Committee of the board will have informal hearings following the adjournment of the regular meeting. No public comment will be heard.

Contact: Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911, FAX (804) 662-9943, or (804) 662-7197/TDD

Legislative/Regulatory Committee

June 17, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A meeting to discuss proposed changes to regulations. No public comment will be received.

Contact: Senita Booker, Program Support Technician Senior, Board of Nursing Home Administrators, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9111, FAX (804) 662-9943 or (804) 662-7197/TDD

BOARD OF PHARMACY

June 10, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting and formal hearing. Public comment will be received at the beginning of the meeting. Public comment on any regulatory process for which the official public comment period has closed will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

† **June 18, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A working meeting of the Regulation Committee to continue development of proposed regulations pursuant to the Notice of Intended Regulatory Action published on March 17, 1997. The committee may discuss legislative proposals for 1998. Public comment will not be received.

Calendar of Events

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

† **June 19, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A formal hearing before a panel of the board. Public comment will not be received.

Contact: Elizabeth Scott Russell, Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9911 or FAX (804) 662-9313.

BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

July 10, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Board Room 3, Richmond, Virginia. ☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

Contact: Arnice Covington, Staff Administrative Assistant, Board of Professional Counselors and Marriage and Family Therapists, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7328 or FAX (804) 662-9943.

POLYGRAPH EXAMINERS ADVISORY BOARD

June 17, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. In addition, the Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

June 9, 1997 - 3 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☎

June 19, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 3, Richmond, Virginia. ☎

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. Public comment will not be heard.

Contact: Arnice Covington, Staff Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-7328 or FAX (804) 662-9943.

June 10, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to conduct general board business. Public comment will be received.

Contact: LaDonna Duncan, Administrative Assistant, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9913 or FAX (804) 662-9943.

Credentials Committee

† **June 27, 1997 - 10 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A meeting to review applications for licensure by examination. Public comment will be received at the beginning of the meeting.

Contact: M. LaDonna Duncan, Administrative Assistant, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9913, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

Regulatory/Legislative Committee

June 10, 1997 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia.

A meeting to discuss Executive Order 15(94) recommendations for amendments to the Regulations Governing the Practice of Psychology. Public comment will be received at the beginning of the meeting.

Contact: Janet Delorme, Deputy Executive Director, Board of Psychology, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VIRGINIA PUBLIC TELECOMMUNICATIONS BOARD

June 12, 1997 - 10 a.m. -- Open Meeting
 Department of Information Technology, Richmond Plaza Building, 110 South 7th Street, 1st Floor East, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to include review and approval of Budget Committee recommendations and other business to conclude the board's operation by June 30, 1997.

Contact: Suzanne J. Piland, Manager, Public Telecommunications Board, Department of Information Technology, 110 S. 7th St., 1st Floor, Richmond, VA 23219, telephone (804) 371-

VIRGINIA RACING COMMISSION

June 18, 1997 - 9:30 a.m. -- Public Hearing
 Tyler Building, 1300 East Main Street, Richmond, Virginia.

July 25, 1997 -- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Racing Commission intends to amend regulations entitled: **11 VAC 10-20-260 et seq. Regulations Pertaining to Horse Racing with Pari-Mutuel Wagering.** The purpose of the proposed action is to establish conditions under which pari-mutuel wagering shall be conducted on horse racing in the Commonwealth.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, P.O. Box 1123, Richmond, VA 23218, telephone (804) 371-7363 or FAX (804) 371-6127.

REAL ESTATE APPRAISER BOARD

† August 12, 1997 - 10 a.m. -- Open Meeting
 Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting. The department fully complies with the Americans with Disabilities Act.

Contact: Karen W. O'Neal, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-0500, FAX (804) 367-2475, or (804) 367-9753/TDD

RECYCLING MARKETS DEVELOPMENT COUNCIL

† June 10, 1997 - 10 a.m. -- Open Meeting
 Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular quarterly meeting to discuss legislation from the 1997 General Assembly which impacted the council. The council was established by the General Assembly in 1993 to develop strategies to enhance the markets for recyclables. Meetings are dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Paddy Katzen for details at (804) 698-4488 or e-mail pmkatzen@deq.state.va.us.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488 or FAX (804) 698-4453.

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

† June 26, 1997 - 5 p.m. -- Open Meeting
 Richmond Nursing Home, 1900 Cool Lane, 2nd Floor, Classroom, Richmond, Virginia.

A monthly board meeting to discuss nursing home operations and related matters.

Contact: Marilyn H. West, Chairman, Richmond Hospital Authority, P.O. Box 548, 700 E. Main St., Suite 904, Richmond, VA 23219-0548, telephone (804) 782-1938.

SEWAGE HANDLING AND DISPOSAL APPEALS REVIEW BOARD

June 11, 1997 - 10 a.m. -- Open Meeting
 General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia.

A meeting to hear appeals of health department denials of septic tank permits.

Contact: Gary L. Hagy, Acting Secretary, Department of Health, 1500 E. Main St., Suite 115, P.O. Box 2448, Richmond, VA 23218, telephone (804) 225-4022 or FAX (804) 225-4003.

VIRGINIA SMALL BUSINESS FINANCING AUTHORITY

† June 25, 1997 - 10 a.m. -- Open Meeting
 Department of Business Assistance, 901 East Byrd Street, 19th Floor, Main Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

Calendar of Events

A general business meeting of the Board of Directors.

Contact: Cathleen Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8256, FAX (804) 225-3384, or (804) 371-0327/TDD ☎

Loan Committee

† **June 25, 1997 - 8:30 a.m.** – Open Meeting
† **July 22, 1997 - 10 a.m.** – Open Meeting
Department of Business Assistance, 901 East Byrd Street, 19th Floor, Main Board Room, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to review applications for loans submitted to the authority for approval. Meeting time is subject to change.

Contact: Cathleen Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8256, FAX (804) 225-3384, or (804) 371-0327/TDD ☎

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

June 19, 1997 - 9 a.m. -- Open Meeting
Department of Social Services, Danville District Office, 510 Patton Street, Danville, Virginia. ♿

A work session and formal business meeting of the board.

Contact: Pat Rengnerth, Administrative Staff Specialist, Department of Social Services, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1900, FAX (804) 692-1949, toll-free 1-800-552-3431, or toll-free 1-800-552-7096/TDD ☎

July 11, 1997- Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Social Services intends to adopt regulations entitled: **22 VAC 40-705-10 et seq. Child Protective Services.** The purpose of the proposed regulation is to satisfy the need to provide direction for how best to protect children from child abuse and neglect balanced with the right of parents and family integrity.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Contact: Jesslyn Cobb, Human Services Program Consultant, Child Protective Services Unit, Department of Social Services, Theater Row Bldg., 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1255, FAX (804) 692-2209 or (804) 692-2215, or toll-free 1-800-828-1120/TDD ☎

BOARD OF SOCIAL WORK

June 11, 1997 - 9 a.m. – Open Meeting
Department of Health Professions, 6606 West Broad Street, Board Room 4, Richmond, Virginia. ♿

A meeting to conduct informal conferences pursuant to § 9-6.14:11 of the Code of Virginia. No public comment will be received.

Contact: Arnice Covington, Staff Administrative Assistant, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-7328 or FAX (804) 662-9943.

Regulatory/Legislative Committee

July 11, 1997 - 8:15 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 3, Richmond, Virginia. ♿

A meeting to discuss recommendations for amendments to definitions governing the practice of social work. Public comment will be received at the beginning of the meeting.

Contact: Janet Delorme, Deputy Executive Director, Board of Social Work, 6606 W. Broad St., Richmond, VA 23230-1717, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

VIRGINIA SOIL AND WATER CONSERVATION BOARD

† **July 10, 1997 - 1 p.m.** -- Open Meeting
Blacksburg Marriott, 900 Prices Fork Road, Blacksburg, Virginia. ♿

A regular bimonthly business meeting.

Contact: Linda J. Cox, Administrative Staff Assistant, Virginia Soil and Water Conservation Board, 203 Governor St., Suite 302, Richmond, VA 23219, telephone (804) 786-2123, FAX (804) 786-6141, or (804) 786-2121/TDD ☎

COMMONWEALTH TRANSPORTATION BOARD

June 11, 1997 - 2 p.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

June 12, 1997 - 10 a.m. -- Open Meeting
Department of Transportation, 1401 East Broad Street,
Richmond, Virginia. (Interpreter for the deaf provided upon
request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TREASURY BOARD

June 18, 1997 - 9 a.m. -- Open Meeting
July 23, 1997 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Gloria J. Hatchel, Administrative Assistant, Department of the Treasury, James Monroe Bldg., 101 N. 14th St., Richmond, VA 23219, telephone (804) 371-6011.

BOARD FOR THE VISUALLY HANDICAPPED

July 16, 1997 - 1:30 p.m. -- Open Meeting
Department for the Visually Handicapped, Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The board is responsible for advising the Governor, the Secretary of Health and Human Resources, the Commissioner, and the General Assembly on the delivery of public services to the blind and the protection of their rights. The board also reviews and comments on policies, budgets and requests for appropriations for the department. At this regular quarterly meeting, the board members will receive information regarding department activities and operations, review expenditures from the board's institutional fund, and discuss other issues raised by board members.

Contact: Katherine C. Proffitt, Executive Secretary Senior, Department for the Visually Handicapped, 397 Azalea Ave., Richmond, VA 23227, telephone (804) 371-3140, toll-free 1-800-622-2155, or (804) 371-3140/TDD

VIRGINIA WAR MEMORIAL FOUNDATION

Board of Trustees

† June 11, 1997 - Noon -- Open Meeting
Virginia War Memorial, 621 Belvidere Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A regular business meeting.

Contact: Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD

VIRGINIA WASTE MANAGEMENT BOARD

June 16, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Waste Management Board intends to amend regulations entitled: **9 VAC 20-70-10 et seq. Financial Assurance Regulations for Solid Waste Facilities.** The proposed amendment incorporates new regulatory requirements for financial assurance by the solid waste facilities owned or operated by the local governments as required by the 1993 amendment to § 10.1-1410 of the Code of Virginia. Extensive changes are also proposed to conform the Virginia requirements to the federal requirements of 40 CFR Part 258. These changes include elimination of the third-party liability requirements.

Statutory Authority: § 10.1-1400 et seq. of the Code of Virginia.

Contact: Wladimir Gulevich, Assistant Division Director, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4218, FAX (804) 698-4327, toll-free 1-800-592-5482, or (804) 698-4021/TDD

STATE WATER CONTROL BOARD

June 16, 1997 - 11 a.m. -- Public Hearing
Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Training Room, Woodbridge, Virginia.

June 18, 1997 - 11 a.m. -- Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Glen Allen, Virginia.

June 27, 1997 - 11 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Training Room, Virginia Beach, Virginia.

Calendar of Events

July 15, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-196-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Cooling Water Discharges.** The purpose of the proposed action is to adopt a regulation for the issuance of a general permit for cooling water discharges.

Statutory Authority: § 62.1-44.15 of the Code of Virginia.

Contact: Lily Choi, Department of Environmental Quality, P.O. Box 11143, Richmond, VA 23240, telephone (804) 698-4054.

June 25, 1997 - 7 p.m. – Public Hearing
Culpeper County High School, 14240 Achievement Drive, Culpeper, Virginia.

A public hearing to receive comments on the proposed reissuance of a Virginia Pollutant Discharge Elimination System (VPDES) permit for South Wales Utility's sewage treatment plant discharging to the Rappahannock River.

Contact: Thomas A. Faha, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (703) 583-3846.

† July 15, 1997 - 1 p.m. – Open Meeting
Council Chambers, Town Hall, 510 7th Street, Altavista, Virginia.

A meeting to provide explanation of a proposed amendment to the existing Upper Roanoke River Subarea Water Quality Management Plan (VR 680-16-02.1) (9 VAC 25-440-10 et seq.), and to allow for verbal comments related to the proposed amendments, any other alternatives, and the costs and benefits of the proposed amendments.

Contact: Michael J. Scanlan, Ph.D., Environmental Manager, Field, Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Rd., Roanoke, VA 24019, telephone (804) 562-6723 or FAX (540) 562-6729.

† July 15, 1997 - 2 p.m. – Public Hearing
Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Training Room, Roanoke, Virginia.

† July 16, 1997 - 10 a.m. – Public Hearing
Department of Environmental Quality, Valley Regional Office Training Room, 4411 Early Road, Training Room, Harrisonburg, Virginia.

† July 17, 1997 - 10 a.m. – Public Hearing
Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Training Room, Richmond, Virginia.

August 11, 1997 - Public comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **9 VAC 25-195-10 et seq. General VPDES Permit for Concentrated Aquatic Animal Production Facilities.** The purpose of the proposed regulation is to adopt a general VPDES permit which will establish limits for the discharge of wastewater associated with concentrated aquatic animal production facilities.

Question and Answer Period: A question and answer period will be held one-half hour prior to the public hearing at the same location. Interested citizens will have an opportunity to ask questions pertaining to the proposal at that time.

Accessibility to Persons with Disabilities: The public hearing will be held at facilities believed to be accessible to persons with disabilities. Any person with questions should contact Mr. Michael B. Gregory at the information contact address. Persons needing interpreter services for the deaf should notify Mr. Gregory no later than July 1, 1997.

Request for Comments: The board is seeking written comments from interested persons on both the proposed regulatory action and the draft permit, and comments regarding the costs and benefits of the proposal or any other alternatives. Written comments on the proposed issuance of the permit and on the proposed regulation must be received no later than 4 p.m. on August 11, 1997, and should be submitted to Mr. Gregory. Comments shall include the name, address, and telephone number of the writer, and shall contain a complete, concise statement of the factual basis for comments. Only those comments received within this period will be considered by the board.

Other Information: The department has conducted analyses on the proposed regulation related to the basis, purpose, substance, issues and estimated impacts. These are available upon request from Mr. Gregory at the information contact address.

Statutory Authority: § 62.1-44.15(10) of the Code of Virginia.

Contact: Michael B. Gregory, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4065 or FAX (804) 698-4032.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS

June 12, 1997 - 9 a.m. – Open Meeting
June 13, 1997 - 9 a.m. – Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Rooms 2 and 3, Richmond, Virginia. ☒

Several board members and invited subject matter experts will meet to conduct an exam workshop. A public comment period will be held at the beginning of

the workshop. After the public comment period, the workshop will be conducted in closed executive session under authority of § 2.1-342 A 11 of the Code of Virginia due to the confidential nature of the examination. The public will not be admitted to the closed executive session.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TDD ☎

NOTE: CHANGE IN MEETING DATE

† **June 19, 1997 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting of the Ad Hoc Committee to discuss a legislative proposal to be presented to the board for the 1998 General Assembly Session. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpretive services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590, FAX (804) 367-2474 or (804) 367-9753/TDD ☎

INDEPENDENT

STATE CORPORATION COMMISSION

Special Advisory Commission on Mandated Health Insurance Benefits

† **June 17, 1997 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ♿

A meeting to review proposed legislation that would require insurers to provide coverage for a minimum 48-hour hospital stay following a mastectomy.

Contact: Rebecca Shelton, Insurance Analyst, State Corporation Commission, Bureau of Insurance, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9537, FAX (804) 371-9944, toll-free 1-800-552-7945, or (804) 371-9206/TDD ☎

STATE LOTTERY BOARD

June 25, 1997 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comment will be received at the beginning of the meeting.

Contact: Barbara L. Robertson, Board, Legislative, and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

LEGISLATIVE

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

June 9, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate Room A, Richmond, Virginia. ♿

Staff briefing on services for mentally disabled residents of adult care residences.

Contact: Phillip A. Leone, Director, Joint Legislative Audit and Review Commission, General Assembly Building, 910 Capitol St., Suite 1100, Richmond, VA 23219, telephone (804) 786-1258.

CHRONOLOGICAL LIST

OPEN MEETINGS

June 9

Alcoholic Beverage Control Board
Environmental Quality, Department of
- Small Business Environmental Compliance Advisory Board
Higher Education for Virginia, State Council of
Legislative Audit and Review Commission, Joint
Medical Assistance Services, Department of
- Pharmacy Liaison Committee
Nursing, Board of
Psychology, Board of

June 10

Agriculture and Consumer Services, Department of
- Virginia Horse Industry Board
† Audiology and Speech-Language Pathology, Board of
Nursing, Board of
Pharmacy, Board of
Psychology, Board of
- Regulatory/Legislative Committee
† Recycling Markets Development Council, Virginia

Calendar of Events

June 11

Interagency Coordinating Council, Virginia
Juvenile Justice, State Board of
Labor and Industry, Department of
- Migrant and Seasonal Farmworkers Board
Sewage Handling and Disposal Appeals Review Board
Social Work, Board of
Transportation Board, Commonwealth
† War Memorial Foundation, Virginia
- Board of Trustees

June 12

† Child Day-Care Council
Funeral Directors and Embalmers, Board of
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
- Priority Populations/Case Rate Funding
Subcommittee of the Pilot Leadership Team
Public Telecommunications Board, Virginia
Transportation Board, Commonwealth
Waterworks and Wastewater Work Operators, Board for

June 13

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
Dentistry, Board of
Funeral Directors and Embalmers, Board of
HIV Community Planning Committee, Virginia
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
- State Human Rights Committee
Waterworks and Wastewater Work Operators, Board for

June 14

HIV Community Planning Committee, Virginia

June 16

† Chesapeake Bay Local Assistance Board
Library Board
- Archival and Information Services Committee
- Automation and Networking Committee
- Executive Committee
- Facilities Committee
- Legislative and Finance Committee
- Nominating Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee

June 17

Aviation Board, Virginia
† Corporation Commission, State
- Special Advisory Commission on Mandated Health
Insurance Benefits
† Corrections, Board of
- Correctional Services Committee
† Housing Development Authority, Virginia
Library Board
- Archival and Information Services Committee
- Automation and Networking Committee
- Executive Committee

- Facilities Committee
- Legislative and Finance Committee
- Nominating Committee
- Publications and Educational Services Committee
- Public Library Development Committee
- Records Management Committee
Medical Assistance Services, Board of
† Nursing, Board of
Nursing Home Administrators, Board of
Polygraph Examiners Advisory Board

June 18

Aviation Board, Virginia
Contractors, Board for
† Corrections, Board of
- Administration Committee
Fire Services Board, Virginia
- Sprinkler Committee
† Manufactured Housing Board, Virginia
† Nursing, Board of
† Pharmacy, Board of
Treasury Board

June 19

† Corrections, Board of
- Liaison Committee
Environmental Quality, Department of
- Work Group on Ammonia, Mercury, Lead and
Copper
Fire Services Board, Virginia
- Fire/EMS Education and Training Committee
- Fire Prevention and Control Committee
- Legislative/Liaison Committee
Medical Assistance Services, Department of
- HJR 630 Study Task Force
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
- Facility Work Group
Museum of Fine Arts, Virginia
- Executive Committee
- Finance Committee
† Nursing, Board of
† Pharmacy, Board of
Psychology, Board of
Social Services, Board of
† Waterworks and Wastewater Works Operators, Board
for

June 20

Accountancy, Board for
Correctional Education, Board of
Dentistry, Board of
Fire Services Board, Virginia
† General Services, Department of
- Design-Build/Construction Management Review
Board
† Nursing, Board of

June 23

Alcoholic Beverage Control Board
 † Competition Council, Commonwealth
 † Conservation and Recreation, Department of
 † Housing and Community Development, Board of

June 24

† Conservation and Recreation, Department of
 - Board of Conservation and Recreation
 Marine Resources Commission

June 25

Agriculture and Consumer Services, Department of
 - Virginia Marine Products Board
 Lottery Board, State
 † Small Business Financing Authority, Virginia

June 26

† Medicine, Board of
 † Mental Health, Mental Retardation and Substance
 Abuse Services, Department of
 † Richmond Hospital Authority
 - Board of Commissioners

June 27

Dentistry, Board of
 Medicine, Board of
 - Informal Conference Committee
 † Mental Health, Mental Retardation and Substance
 Abuse Services, Department of
 † Psychology, Board of
 - Credentials Committee

June 30

† Higher Education Tuition Trust Fund, Virginia
 Intergovernmental Relations, Advisory Commission on

July 1

Hopewell Industrial Safety Council

July 2

† Mental Health, Mental Retardation and Substance
 Abuse Services, Department of

July 3

† Mental Health, Mental Retardation and Substance
 Abuse Services, Department of

July 9

Asbestos Licensing and Lead Certification, Board for
 † Nursing Home Administrators, Board of

July 10

† Conservation and Recreation, Department of
 - Falls of the James Scenic River Advisory Board
 † Soil and Water Conservation Board, Virginia
 Licensed Professional Counselors, Board of

July 11

Accountancy Board for
 Social Work, Board of
 - Regulatory/Legislative Committee

July 14

† Cosmetology, Board for

July 15

† Water Control Board, State

July 16

Visually Handicapped, Board for the

July 17

Agriculture and Consumer Services, Department of
 - Pesticide Control Board
 † Game and Inland Fisheries, Board of

July 18

† Game and Inland Fisheries, Board of

July 21

† Accountancy, Board for
 † Higher Education Tuition Trust Fund, Virginia

July 22

Agriculture and Consumer Services, Department of
 - Virginia Small Grains Board
 † Small Business Financing Authority
 - Loan Committee

July 23

† Agriculture and Consumer Services, Department of
 - Virginia Winegrowers Advisory Board
 Treasury Board

August 4

† Barbers, Board for

August 5

Hopewell Industrial Safety Council

August 12

† Real Estate Appraiser Board

PUBLIC HEARINGS

June 11

Juvenile Justice, Board of

June 17

† Environmental Quality, Department of

June 16

Water Control Board, State

June 18

Health, Board of
 † Milk Commission, State
 Racing Commission, Virginia
 Water Control Board, State

June 19

Health, Board of

June 20

Health, Board of

June 25

Water Control Board, State

Calendar of Events

June 27

Water Control Board, State

July 8

Criminal Justice Services Board

July 15

† Water Control Board, State

July 16

† Water Control Board, State

July 17

† Audiology and Speech-Language Pathology, Board of

† Water Control Board, State