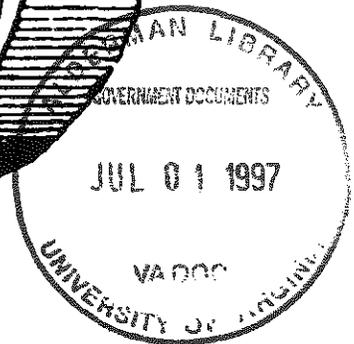
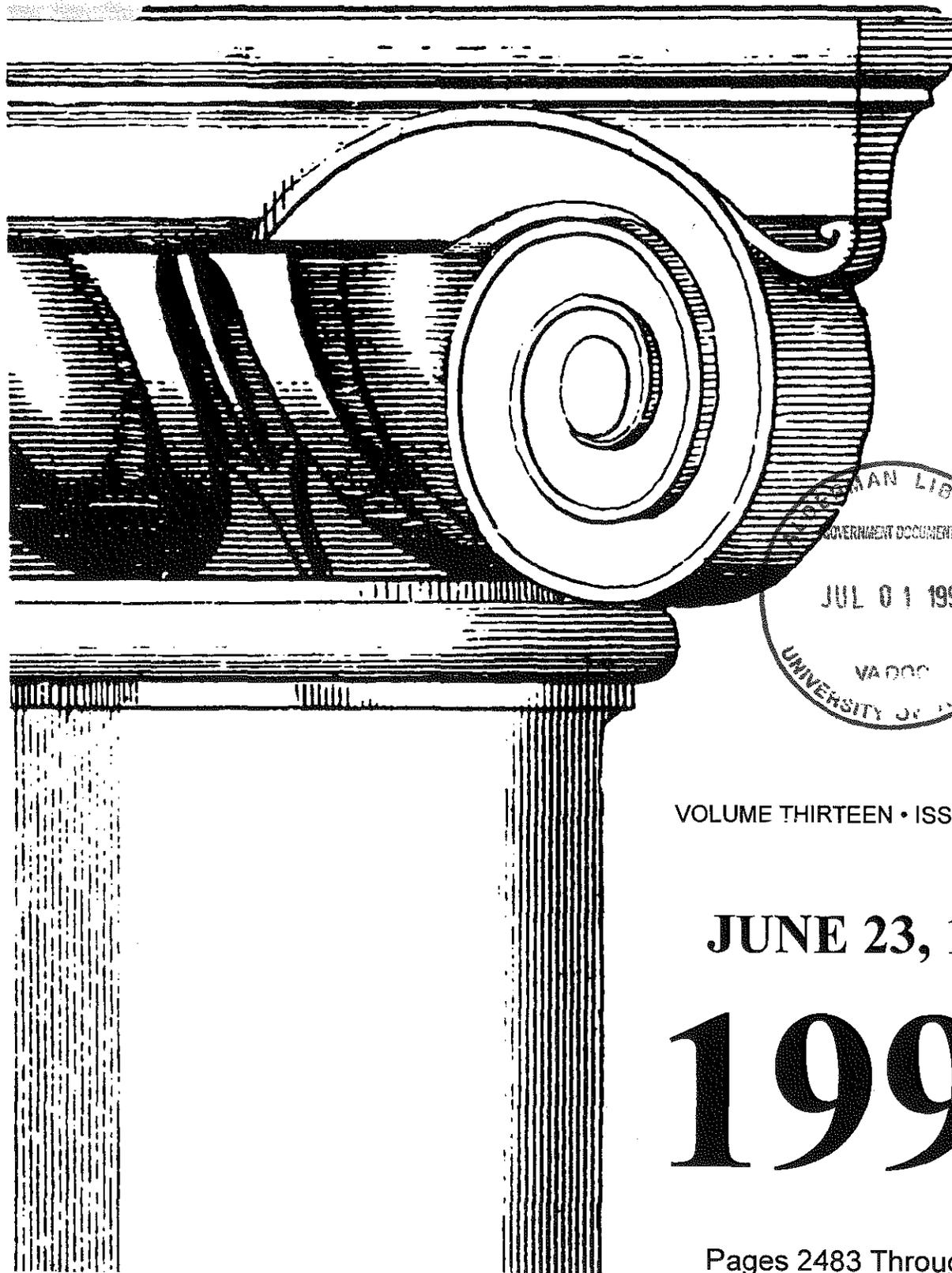


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THE VIRGINIA REGISTER INFORMATION PAGE

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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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 5-40-10 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, 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).

Notices of Intended Regulatory Action

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.

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:

Notices of Intended Regulatory Action

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:

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.

Notices of Intended Regulatory Action

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, 10:58 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 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.

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

Notices of Intended Regulatory Action

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 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.

Notices of Intended Regulatory Action

† 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 5-80-10 et seq. Regulations for the Control and Abatement of Air Pollution (Rev. J97)**. The purpose of the proposed action is to develop a new source review permit program for sources of hazardous air pollutants as required by § 112(g) of the federal Clean Air Act.

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 10:30 a.m. on July 23, 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 24, 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 contemplated regulation is essential (i) to protect the health, safety or welfare of citizens and (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

Hazardous air pollutants are known or suspected of causing cancer, nervous system damage, birth defects, and other serious health effects. Control of major sources of these pollutants will reduce and prevent such serious health effects.

Failure to develop an adequate regulation will also result in imposition of a federal program. Meeting the basic requirements of the law and its associated regulations will ensure that Virginia retains its rights to govern Virginia sources.

Alternatives: Alternatives to the proposed regulatory action are being considered by the department. The department has tentatively determined that the first alternative is appropriate, as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulatory

action. The alternatives 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 regulatory action: to develop a new source review permit program for sources of hazardous air pollutants as required by § 112(g) of the federal Clean Air Act.

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. This option is not being selected because it will result in the imposition of a federal program.

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 may be found below.

Under § 112 of the Clean Air Act, EPA is required to develop and maintain a list of hazardous air pollutants (HAPs), and to develop emission standards for these pollutants.

After the effective date of a Title V operating permit program, § 112(g) requires new and modified major sources to apply maximum achievable control technology (MACT). As described in §§ 112(g)(2)(A) and (B), modifying sources must meet the MACT for existing sources, and new sources must meet the MACT for new sources. If no applicable emissions limitations have been established, MACT must be determined on a case-by-case basis by states with approved Title V programs. Section 112(g)(1)(A) also allows sources to avoid requirements for modifications through the substitution of offsets; § 112(g)(1)(B) requires EPA to publish guidance that identifies the relative hazard to human health resulting from HAP emissions in order to facilitate any offset.

National Emission Standards for Hazardous Air Pollutants for Source Categories are found in 40 CFR Part 63. Thus far, final MACT standards have been issued for over 30 source types. The requirements of § 112 are also implemented in 40 CFR 63.40 through 63.44, Requirements for control technology. This final rule was published in 61 FR 68384 (December 27, 1996). It establishes requirements and procedures for owners or operators to follow to comply with § 112(g), as well as guidance for permitting authorities in implementing § 112(g).

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

Public comments may be submitted until 4:30 p.m., July 24, 1997, to the Director, Office of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Notices of Intended Regulatory Action

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. R97-556; Filed June 4, 1997, 3:52 p.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 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.

BOARD FOR CONTRACTORS

† 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 Contractors intends to consider amending regulations entitled: **18 VAC 50-22-10 et seq. Board for Contractors Regulations.** The purpose of the proposed action is to comply with Executive Order 15(94) and conduct a regular reevaluation to determine if current regulations should be continued in existing form, amended, or terminated in order to regulate contractors in the least restrictive manner. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Public comments may be submitted until July 23, 1997.

Contact: Eric L. Olson, Assistant Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or FAX (804) 367-2474.

VA.R. Doc. No. R97-539; Filed May 23, 1997, 12:10 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 amending regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration and Scope of Medical and Remedial Care Services; 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure Quality of Care; and 12 VAC 30-80-10 et seq. Methods and Standards for Establishing Payment Rates—Other Types of Care.** The purpose of the proposed action is to establish Medicaid coverage policies for licensed clinical nurse specialists, making them eligible for direct payment for the provision of services that they are licensed to provide. The agency does not intend to hold a public hearing on the proposed regulations after publication.

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

Public comments may be submitted until July 23, 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. R97-538; Filed May 21, 1997, 3:04 p.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

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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 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 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.

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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).

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.

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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 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

Notices of Intended Regulatory Action

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.

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 referendum 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.

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

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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)
BOD₅

Burlington Ind. - Clarksville 1,793 lbs/day
(813 kg/day) BOD₅

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 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

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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.

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

Notices of Intended Regulatory Action

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 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

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(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 AIR POLLUTION CONTROL BOARD

August 4, 1997 - 9 a.m. – Public Hearing
Department of Environmental Quality, 629 East Main Street,
First Floor, Training Room, Richmond, Virginia.

August 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 State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-20-10 et seq. Regulations for the Control and Abatement of Air Pollution: General Provisions and 9 VAC 5-80-10 et seq. Regulations for the Control and Abatement of Air Pollution: Permits for Stationary Sources (Revision SS)**. The regulation amendments concern provisions covering state operating permits for stationary sources. Permits may be issued under this program at the request of either source owner or board to accomplish a variety of purposes: to designate a source as a synthetic minor, to combine a source's requirements under multiple permits into one permit, to implement emissions trading requirements, to cap the emissions of a source contributing to a violation of any air quality standard, to establish requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law. Changes to permits may be accomplished through administrative permit amendments, minor permit amendments, or significant permit amendments. The board may issue a general permit covering a source category containing numerous similar sources that meet certain criteria. New provisions (9 VAC 5-80-800 et seq.) are being proposed to replace existing provisions (9 VAC 5-80-40), which are proposed for repeal.

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
3019 Peters Creek Road
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
4411 Early Road
Harrisonburg, Virginia 22801
Ph: (540) 574-7800

Public Comment Periods - Proposed Regulations

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Northern Regional Office
Department of Environmental Quality
13901 Crown Court
Woodbridge, Virginia
Ph: (703) 583-3800

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000

Statutory Authority: §§ 10.1-1308 and 10.1-1322 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Monday, August 25, 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 ☎

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

August 22, 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 Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-120-360 et seq. Part VI. Medallion II.** Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring HMOs for violations specified in the federal regulations. This regulation adds a provision for monitoring physician incentive plans developed by HMOs.

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

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) 371-8854 or FAX (804) 371-4981.

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.

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: Regulations for the Control and Abatement of Air Pollution (Rev. SS).

9 VAC 5-20-10 et seq. General Provisions (adding 9 VAC 5-20-220 and 9 VAC 5-20-230).

9 VAC 5-80-10 et seq. Permits for Stationary Sources (adding Article 5, 9 VAC 5-80-800 through 9 VAC 5-80-1040; repealing 9 VAC 5-80-40).

Statutory Authority: §§ 10.1-1308 and 10.1-1322 of the Code of Virginia.

Public Hearing Date: August 4, 1997 - 9 a.m.

Public comments may be submitted until August 25, 1997.

(See Calendar of Events section for additional information)

Basis: Section 10.1-1308 of the Virginia Air Pollution Control Law authorizes the State Air Pollution Control Board to promulgate regulations abating, controlling and prohibiting air pollution in order to protect public health and welfare.

Purpose: The purpose of the regulation is to provide a procedural and legal basis for the issuance of operating permits to establish emission standards and other source-specific regulatory requirements for owners of certain stationary sources of air pollution to the extent necessary to attain and maintain such levels of air quality as will protect human health and welfare. Those affected include any owner who wishes to have a stationary source or emissions unit designated as a synthetic minor, to combine requirements under multiple permits into one permit, or to implement emissions trading requirements; any owner of a stationary source or emissions unit contributing to a violation of any air quality standard for which the board may choose to cap the emissions; and any owner of a stationary source or emissions unit belonging to a category of source for which the board may choose to establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law. The regulation is being proposed to establish source-specific requirements without the need for burdensome case-by-case EPA review. The program provides a way to establish regulatory requirements for a specific source without having to adopt broad-based regulatory requirements for a category of sources. It provides a means to make control measures federally enforceable without federal review through the use of state operating permits.

Substance: The major provisions of the proposal are summarized below:

1. Permits may be issued under this article at the request of any owner to designate a source as a

synthetic minor; to combine a source's requirements under multiple permits into one permit; or to implement emissions trading requirements. Permits may also be issued at the discretion of the board to cap the emissions of a source contributing to a violation of any air quality standard or to establish requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law. A permit may be issued regardless of other permits in force provided that it does not contravene any provision of any of the other permits. [9 VAC 5-80-800]

2. In addition to the terms defined in 9 VAC 5-10-20, other terms having definitions unique to this article are defined. [9 VAC 5-80-810]

3. Permits can apply to one pollutant, multiple pollutants, one emissions unit, or multiple emissions units. They can also combine the requirements of multiple permits into one permit. [9 VAC 5-80-820]

4. For a permit requested by the owner of a source, a single application identifying each emissions unit to be covered by the permit is required. Where several units are included in one source, the owner shall submit a single application covering all units which are to be permitted. A separate application is required for each source. [9 VAC 5-80-830]

5. For a permit requested by the owner of a source, the application shall include specified information determined and presented in a manner acceptable to the board. For a permit requested at the discretion of the board, the board may request any information necessary to analyze the air pollution of the stationary source or emissions unit. [9 VAC 5-80-840]

6. A permit may be granted if the source shall operate without causing a violation of applicable regulatory provisions; shall be in compliance with all applicable emission standards or meet the provisions of any administrative enforcement mechanism; and shall operate in conformance with any applicable control strategy so as not to interfere with the attainment or maintenance of any applicable ambient air quality standard. Permits may be granted to sources located in nonattainment areas provided certain requirements are met. Permits may contain emissions standards as necessary. Certain criteria shall be met in establishing emission standards to the extent necessary to assure that emissions levels are enforceable as a practical matter. [9 VAC 5-80-850]

7. Processing time for a permit is normally 90 days (if no public comment period is required) or 180 days (if a public comment period is required) following receipt of a

complete application. This time is necessary to accomplish several specified processing steps. The permit, when issued, shall be maintained on the premises of the source and be made available to the board upon request. [9 VAC 5-80-860]

8. Each permit application shall be subject to a control technology review, an air quality analysis, and possibly an air quality impact model. [9 VAC 5-80-870]

9. The board may require owners of sources to conduct such tests as are necessary to determine the type or amount of the pollutants emitted or whether the source will be in compliance with applicable regulatory provisions. [9 VAC 5-80-880]

10. The board may require owners of sources to install, calibrate, operate, and maintain equipment for continuously monitoring and recording emissions or process parameters or both, and establish and maintain records, and make periodic emission reports. [9 VAC 5-80-890]

11. The board may require owners of sources to establish and maintain records, provide notifications and reports, revise reports, report emission tests or monitoring results. Any required records, notifications, reports, or tests shall be retained by the owner for at least three years. If an owner wishes to request the establishment of an average emissions baseline for a period longer than three years, that owner must maintain records for that period. If a source is shut down, the owner shall notify the board within six months of the date the source is shut down. [9 VAC 5-80-900]

12. The existence of a permit shall not constitute a defense to a violation of the Virginia Air Pollution Control Law or regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances, and orders of the governmental entities having jurisdiction. [9 VAC 5-80-910]

13. Permits shall be required of owners who circumvent the regulatory requirements by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit. [9 VAC 5-80-920]

14. A source owner must comply with existing zoning ordinances and regulations in the locality of the source. [9 VAC 5-80-930]

15. No person shall transfer a permit from one location to another, or from one piece of equipment to another. In the case of a transfer of ownership or name change of a source, the new owner shall abide by any current permit issued to the previous owner or to the same owner under the previous source name and shall notify the board of the change in ownership or source name or both within 30 days of the transfer or name change. [9 VAC 5-80-940]

16. A permit shall be valid for the life of the source unless the board terminates the permit under specified conditions. The board may terminate a permit with the consent of the owner or on its own motion. Upon a final determination by the board that a source is shut down permanently, the board shall revoke any permits for that source. [9 VAC 5-80-950]

17. The permittee may initiate a change to a permit by submitting a written request to the board for an administrative permit amendment, a minor permit amendment, or a significant permit amendment. This request for a change shall include a statement of the reason for the proposed change. The board may initiate a change to a permit through the use of permit reopenings. [9 VAC 5-80-960]

18. Administrative permit amendments shall be used for the correction of typographical or other error which does not substantially affect the permit; change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source; change in ownership or operational control of a source; or the combining of permits. The board shall take final action on a request for an administrative permit amendment no more than 60 days from receipt of the request, incorporating the changes without providing notice to the public. The owner may implement the changes requested immediately upon submittal of the request. [9 VAC 5-80-970]

19. Minor permit amendment procedures shall be used for permit amendments that do not violate any applicable regulatory requirement; do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit; do not require or change a case-by-case determination of an emission limitation or other standard; do not seek to establish or change a permit term or condition for which there is no corresponding underlying applicable regulatory requirement; are not modifications under the new source review program or under § 112 of the federal Clean Air Act; and are not required to be processed as a significant amendment or as an administrative permit amendment. Under certain conditions, minor permit amendment procedures may be used for permit amendments involving the use of economic incentives and emissions trading; to require more frequent monitoring or reporting by the permittee or to reduce the level of an emissions cap; or to rescind a provision of a permit. Normally within 90 days of receipt by the board of a request under minor permit amendment procedures, the board will issue the permit amendment as proposed; deny the permit amendment request; or determine that the requested amendment does not meet the minor permit amendment criteria and should be reviewed under the significant amendment procedures. The owner may make the change proposed in the minor permit amendment request immediately after the request is filed. Until the board takes action on the request, the

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source shall comply with the applicable regulatory requirements governing the change and the proposed permit terms and conditions. During this time, the owner need not comply with the existing permit terms and conditions he seeks to modify, but if he fails to comply with the proposed permit terms and conditions during this time, the existing permit terms and conditions he seeks to modify may be enforced against him. [9 VAC 5-80-980]

20. Significant amendment procedures shall be used for permit amendments that involve significant changes to existing monitoring, reporting, or recordkeeping requirements; require or change a case-by-case determination of an emission limitation or other standard; or seek to establish or change a permit term or condition for which there is no corresponding underlying applicable regulatory requirement. The board will take normally final action on significant permit amendments within 90 days after receipt of a request. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board. [9 VAC 5-80-990]

21. A permit may be reopened and revised if additional regulatory requirements or changes to existing requirements become applicable to emissions units or pollutants covered by the permit; if the board determines that the permit contains a material mistake or that inaccurate statements were made in establishing the terms or conditions of the permit; or if the board determines that the permit must be revised to assure compliance with the applicable regulatory requirements or that the conditions of the permit will not be sufficient to meet all applicable standards and requirements. Proceedings to reopen and reissue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Reopenings will normally not be initiated before a notice of intent is provided to the source by the board at least 30 days in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency. [9 VAC 5-80-1000]

22. The board may revoke or suspend any permit if the permittee willfully makes material misstatements in the permit application or any amendments to it; fails to comply with the terms or conditions of the permit; fails to comply with any emission standards applicable to an emissions unit included in the permit; causes emissions from the source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy; or fails to comply with other applicable regulatory provisions. Violation of regulations of the board are subject to the civil charges, penalties, and all other relief authorized by the regulations and by the Virginia Air Pollution Control Law. The board shall notify the applicant in writing of its

decision, with its reasons, to change, suspend or revoke a permit. [9 VAC 5-80-1010]

23. Applications for permits containing provisions that are necessary for the permit to be federally enforceable shall be subject to a public comment period of at least 30 days, of which the public shall be notified. The notification shall be published at least 30 days prior to the day of the public hearing. Information on the permit application shall be available for public inspection during the public comment period. A copy of the notice shall be sent to affected local air pollution control agencies, states sharing the affected air quality control region, the regional administrator of the U.S. Environmental Protection Agency, and certain other governmental entities. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing. The board will normally review all requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper; and normally within 30 calendar days following the expiration of the public comment period shall grant a public hearing if it finds both significant public interest and substantial, disputed issues. The board shall notify the applicant and each requester of the decision to convene or deny a public hearing. [9 VAC 5-80-1020]

24. The board may issue a general permit covering a source category containing numerous similar sources that meet certain criteria, which shall be specified in the permit. The board shall grant the general permit to sources that meet these criteria. The general permit may specify a reasonable time period after which a source that has submitted a complete application shall be deemed to be authorized to operate under the general permit. Sources covered under a general permit may be issued a document attesting that the source is covered by the general permit. The source shall be subject to enforcement action for operation without a permit if the source is later determined by the board or the administrator not to qualify for the conditions and terms of the general permit. [9 VAC 5-80-1030]

25. Prior to three years after the effective date of the article, the department shall provide the board with an analysis assessing the effectiveness of, alternatives to, continuing need for, and clarity of the article. Upon review of the analysis, the board shall either continue, repeal, or amend the article. [9 VAC 5-80-1040]

26. Upon a final decision by the board that a source is shut down permanently, the board shall revoke any permits, and the source shall not commence operation without a new permit being issued. Upon a determination that a source has not operated for a year or more, the board shall, after notification of and opportunity for response by the owner, declare the source to be shut down permanently. [9 VAC 5-20-220]

27. Specified documents submitted to the board shall be signed by a responsible official who shall certify the truth, accuracy, and completeness of the information submitted. [9 VAC 5-20-230]

Issues: The primary advantages and disadvantages of implementation and compliance with the regulation by the public and the department are discussed below.

1. Public: The regulation's primary advantage to the public is the opportunity it creates for major sources to opt out of burdensome federal requirements mandated by Title V and other Clean Air Act programs. Sources whose potential to emit exceeds the threshold for their designation as major often have actual emissions below that threshold. A state operating permit can limit the source's potential to emit to a level more closely reflecting that source's actual emissions. If that limit is below the threshold for the source's designation as major, the source can escape the federal mandates imposed on major sources, thus realizing significant savings in money and manpower.

There are no disadvantages to the public of implementation and compliance with the regulation.

2. Department: The regulation's primary advantage to the department is the opportunity it creates for the state to enforce specific mandates pertaining to the state operating permit program without the need for federal oversight. Such enforceability at the state level will save Virginia considerable time and money and will promote better relations between the Department of Environmental Quality and the Commonwealth's regulated community. Furthermore, the regulation will allow the Commonwealth to avoid consent orders. Owners of sources subject to compliance programs through new regulatory initiatives or other air quality planning requirements must sign a consent order which is, in effect, an agreement between the department and the owner for the source to meet those initiatives or requirements. The proposed program would supplant the use of consent orders under these conditions and remove the negative connotation that accompanies signed consent orders. Consent orders are generally used after a facility has been found in violation of the regulations when the department needs an enforceable administrative mechanism to ensure that the facility's operation will change to avoid a violation in the future.

There are no disadvantages to the department of implementation and compliance with the regulation.

Localities Affected: There is no locality which will bear any identified disproportionate material impact due to the proposed regulation which would not be experienced by other localities.

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. Title V of the CAAA establishes a comprehensive permit program modeled after the National Pollution Discharge Elimination System (NPDES) permits used to regulate discharges into the nation's waterways. The Title V permits are intended to include all of the statutory obligations applicable to a given major source or new source under the CAAA and the state implementation plan. Compliance with the terms of the permit provides sources with a shield against findings of noncompliance with respect to those parts of the CAAA requirements covered in the permit.

This proposal concerns itself with the procedural and legal basis for the operating permits program. It replaces an earlier version of the regulation. For the most part the changes clarify and reorganize the earlier version of the regulation.

The most important substantive change is the explicit provision for sources to be classified as "synthetic minors." For existing sources, the operating permit program only applies to "major sources," that is, sources capable of emitting over 100 tons of pollutant per year. This determination is based on design capacity rather than the likelihood that the source will actually emit 100 tons or more. Some sources with the design capacity that would qualify them as "major" may not expect to actually emit at that level in the near future. These sources may undertake a voluntary restraint on their activity that legally binds them to operate below the limit as long as the permit is in effect. This "major" source then becomes a "synthetic minor" and, as such, is no longer treated as a major source under the Clean Air Act. This allows the source to operate without meeting the extra regulatory requirements that the CAAA applies to major sources.

Estimated economic impact. A major source of hazardous emissions is defined in the CAAA as one which emits 10 tons per year or more of a hazardous air pollutant (HAP) or 25 tons or more of any combination of HAPs. For non-HAP emissions, a major source is defined as a facility that emits or has the design capacity to emit 100 tons or more per year. Potential emissions of 250 tons or more per year also triggers review under the "prevention of significant deterioration" (PSD) regulations.

For the non-HAP case, probably the two most important requirements triggered by designation as a major source are

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the new source review (NSR) in nonattainment areas and PSD areas and the stricter emission standards (known as RACT, for reasonably available control technology) required in the law of certain major sources in nonattainment areas. Sources subject to NSR must meet standards stricter than those applied to existing sources; best available control technology (BACT) and lowest achievable emission rate (LAER) rather than the existing source standards of RACT for nonattainment areas and no limits for PSD areas. In addition to these substantive requirements, there are significant procedural ones that also have associated costs. The substantive requirements are in terms of stricter emission limits and assurances that other major sources under the same ownership as the new source are in compliance with applicable emission limits.

Assessing the cost burden imposed by these rules is complicated by a parallel set of requirements on new and modified sources. The CAAA contains provisions establishing new source performance standards (NSPS). These standards are limited to those sources for which EPA has promulgated an NSPS, but they are not limited in the law to major sources. In practice, many sources will be subject to limits similar to BACT and LAER whether they are major sources or not. Thus, for such sources the option to become a synthetic minor will not be of much value. It is not clear how many major sources will have this dual requirement, but it does tend to lessen (although not eliminate) the value to Virginia of the synthetic minor option.

For many sources, the ability to voluntarily accept a permit constraint and thus to avoid some of the significant costs imposed on major sources will be a valuable option. That it is voluntary means that firms will only avail themselves of the opportunity if they perceive a net benefit from doing so. At the same time, there is no disadvantage, and possibly a net gain, to the public since, to achieve synthetic minor status, a source must enter a legally binding obligation to limit its emissions to something below its design capacity. The tighter emission limits that would apply to those additional emissions impose an opportunity cost on the firm that give it incentive to maintain low emissions even if it plans to expand production. This may result in a net gain in air quality at the same time that it reduces firm compliance costs.

The case of HAPs is quite similar. To some extent, the NSPS for HAPs will overlap with the "maximum achievable control technology" (MACT) standard that is applied to sources in order to meet the National Emission Standards for Hazardous Air Pollutants. How much overlap there is will depend on the categories of sources for which NSPSs are established for HAPs.

Whatever the overlap, there will still be many sources that will be able to benefit from having themselves designated synthetic minors. DEQ reports that there are 351 Title V major sources, and 791 synthetic minors. There are applications from 51 sources for synthetic minor status. The magnitude of the savings is not known because the average savings to sources choosing synthetic minor status is not known. It is possible that the value of this option to Virginia

firms could possibly amount to millions of dollars. Since there do not appear to be any significant environmental risks associated with these benefits, then the savings to firms are a net benefit to Virginia.

Businesses and entities affected. The business affected by this regulation are those subject to permits under Title V of the CAAA. These are sources that qualify as major sources. The most significant change in the regulations will benefit those sources that can be redesignated as synthetic minors.

Localities particularly affected. Since the definition of major source covers a larger percentage of firms in the northern Virginia nonattainment area than in the rest of the Commonwealth and since average compliance costs are higher there, then it is likely that a larger share of the benefits of this regulation will occur in that region.

Projected impact on employment. It is not clear what impact this rule will have on employment. Because other states in the region offer the synthetic minor option, not to implement this rule would place Virginia at a competitive disadvantage for recruiting new employers.

Effects on the use and value of private property. The value of firms qualifying for synthetic minor status will likely rise to reflect the savings in compliance costs. The magnitude of this effect is not known.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget prepared an economic impact analysis for the proposal as required by § 9-6.14:7.1 G of the Administrative Process Act. This economic impact analysis focuses primarily on the provisions dealing with the creation of synthetic minors, appropriately so since these provisions probably have the greatest economic impact of all the provisions in the proposal. The Department of Environmental Quality, however, would like to clarify two points addressed in the economic impact analysis. First, the creation of synthetic minors possesses economic value for sources of hazardous air pollutants solely with relation to the Title V program, not to the PSD or nonattainment area programs since these programs do not cover hazardous pollutants. Second, although a synthetic minor source has to comply with essentially the same limits even if it avoids a PSD or nonattainment area review, these two programs impose on sources some considerable economic burdens which are not addressed by the creation of synthetic minors. Nonetheless, the burdens associated specifically with obtaining a permit under either of these programs could be reduced by the synthetic minor option outlined in the proposal.

Summary:

The regulation amendments concern provisions covering state operating permits for stationary sources. New provisions (9 VAC 5-80-800 et seq.) are being proposed to replace existing provisions (9 VAC 5-80-40), which are proposed for repeal. Under the new provisions, permits may be issued under this program at the request of either the source owner or the board to accomplish a

variety of purposes: to designate a source as a synthetic minor, to combine a source's requirements under multiple permits into one permit, to implement emissions trading requirements, to cap the emissions of a source contributing to a violation of any air quality standard, and to establish requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law. Changes to permits may be accomplished through administrative permit amendments, minor permit amendments, or significant permit amendments. The board may issue a general permit covering a source category containing numerous similar sources that meet certain criteria. Based on a department analysis given to the board no later than three years after the effective date of this article, the board shall either continue, repeal, or amend the article.

CHAPTER 20.
GENERAL PROVISIONS.

9 VAC 5-20-220. Shutdown of a stationary source.

A. Upon a final decision by the board that a stationary source or emissions unit is shut down permanently, the board shall revoke any permits by written notification to the owner and remove the stationary source or emissions unit from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the stationary source or emissions unit shall not commence operation without a permit being issued under the applicable provisions of 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.).

B. The final decision shall be rendered as follows:

1. Upon a determination that the stationary source or emissions unit has not operated for a year or more, the board shall provide written notification to the owner (i) of its proposed decision that the stationary source or emissions unit is considered to be shut down permanently and (ii) that if the owner fails to provide within three months of the notice written response to the board that the shutdown is not to be considered permanent, the decision shall become final within six months of the notice. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart-up of the stationary source or emissions unit.

2. If the board should find that the basis for the assertion is not sound or the projected restart-up date allows for an unreasonably long period of inoperation, the decision to consider the shutdown permanent shall become final one year after the date of the notice of the proposed decision.

C. Nothing in any regulation of the board shall be construed to prevent the board and the owner from making a mutual determination that a stationary source or emissions unit is shut down permanently prior to any final decision rendered under subsection A of this section.

9 VAC 5-20-230. Certification of documents.

A. The following documents submitted to the board shall be signed by a responsible official: (i) any emission statement, application, form, report, or compliance certification; (ii) any document required to be so signed by any provision of the regulations of the board; or (iii) any other document containing emissions data or compliance information the owner wishes the board to consider in the administration of its air quality programs. A responsible official is defined as follows:

1. For a business entity, such as a corporation, association or cooperative, a responsible official is either:

a. The president, secretary, treasurer, or a vice president of the business entity in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the business entity; or

b. A duly authorized representative of such business entity if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25 million (in second quarter 1980 dollars) or (ii) the authority to sign documents has been assigned or delegated to such representative in accordance with procedures of the business entity.

2. For a partnership or sole proprietorship, a responsible official is a general partner or the proprietor, respectively.

3. For a municipality, state, federal, or other public agency, a responsible official is either a principal executive officer or ranking elected official. A principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

B. Any person signing a document under subsection A of this section 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 and evaluating 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."

C. Subsection B of this section shall be interpreted to mean that the signer must have some form of direction or supervision over the persons gathering the data and

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preparing the document (the preparers), although the signer need not personally nor directly supervise these activities. The signer need not be in the same line of authority as the preparers, nor do the persons gathering the data and preparing the form need to be employees (e.g., outside contractors can be used). It is sufficient that the signer has authority to assure that the necessary actions are taken to prepare a complete and accurate document.

D. Any person who fails to submit any relevant facts or who has submitted incorrect information in a document shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

CHAPTER 80. PERMITS FOR STATIONARY SOURCES.

PART I. PERMITS FOR NEW AND MODIFIED SOURCES.

9 VAC 5-80-40. ~~Permits operating. (Repealed.)~~

A. ~~Applicability.~~

~~1. Except as provided in subsection A 3 of this section, the provisions of this section apply to the operation of any stationary source.~~

~~2. The provisions of this section apply throughout the Commonwealth of Virginia.~~

~~3. The provisions of this section shall not apply to the following:~~

~~a. Any source exempted by the new source exemption levels in 9 VAC 5-10-20, Appendix R; or~~

~~b. Any existing source that would be exempted by the new source exemption levels in Appendix R if the source were a new source.~~

~~4. Unless specified otherwise, the provisions of this section are applicable to various sources as follows:~~

~~a. Provisions referring to "sources" or "stationary sources" are applicable to the operation of all stationary sources.~~

~~b. Provisions referring to "major stationary sources" are applicable to the operation of all major stationary sources as may be defined by the applicable regulation.~~

B. ~~Definitions.~~

~~1. For the purpose of these regulations and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection B 3 of this section.~~

~~2. As used in this section, all terms not defined here shall have the meaning given them in 9 VAC 5-10-10 et seq., unless otherwise required by context.~~

~~3. Terms defined.~~

~~"Actual emissions" means the actual rate of emissions of a pollutant from any stationary source. In general, actual emissions as of a particular date shall equal the highest annual rate, in tons per calendar year, at which the source actually emitted a pollutant during the consecutive five year period which precedes the particular date and which is representative of normal source operation. The board may allow the use of a different historical time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.~~

~~"Allowable emissions" means the emission rates of a stationary source calculated by using the maximum rated capacity of the emissions units within the source (unless the source is subject to state or federally enforceable limits which restrict the operating rate or hours of operation or both) and the most stringent of the following:~~

~~(1) Applicable emission standards;~~

~~(2) The emission limitation specified as a state or federally enforceable permit condition, including those with a future compliance date; or~~

~~(3) Any other applicable emission limitation, including those with a future compliance date.~~

~~"Complete application" means that the application contains all the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the board from requesting or accepting additional information.~~

~~"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any air pollutant.~~

~~"Existing source" means any stationary source other than a new source.~~

~~"Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within the State Implementation Plan, and any permit requirements established pursuant to (i) 40 CFR 52.21; (ii) 9 VAC 5-80-10, 9 VAC 5-80-20, or 9 VAC 5-80-30; or (iii) this section, provided the public participation requirements of subsection S of this section are met.~~

~~"Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons or more per year of any air pollutant.~~

~~"New source" means any stationary source (or portion of it), the construction or relocation of which commenced on or after March 17, 1972; and any~~

stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

"~~Nonattainment condition~~" means a condition where any area is shown by air quality monitoring data or which is shown by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant, regardless of whether such demonstration is based on current or future emissions data.

"~~Owner~~" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a source.

"~~Potential to emit~~" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"~~Secondary emissions~~" means emissions which would occur as a result of the construction or operation of a major stationary source, but do not come from the major stationary source itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"~~State enforceable~~" means all limitations and conditions which are enforceable by the board, including those requirements developed pursuant to 9 VAC 5-20-110, requirements within any applicable order or variance, and any permit requirements established pursuant to 9 VAC 5-80-10 et seq.

"~~Stationary source~~" means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two digit

code) as described in the Standard Industrial Classification Manual (see 9 VAC 5-10-20, Appendix M).

C. General.

1. ~~No owner or other person shall operate any stationary source without first obtaining from the board a permit to operate the source. The schedule of issuance of these permits shall be as follows:~~

a. ~~No owner or other person shall operate any existing major stationary source after January 1, 1995, without first obtaining from the board a permit to operate the source. Permit applications to obtain these permits shall be submitted between July 1, 1991, and October 1, 1994, on a schedule to be determined by the board.~~

b. ~~Permit applications for all other stationary sources shall be submitted on and permits shall be issued on a schedule to be approved by the board. The schedule shall be approved by the board by July 1, 1994. The provisions of this section are waived for such sources until such time as the board prescribes the required schedule.~~

2. ~~The board may combine the requirements of and the permits for emission units within a stationary source subject to 9 VAC 5-80-10 et seq. into one permit. The board may likewise combine the requirements of and applications for permits for emission units within a stationary source required by 9 VAC 5-80-10 et seq. into one application.~~

3. ~~Permits issued under the provisions of 9 VAC 5-80-10, 9 VAC 5-80-20, or 9 VAC 5-80-30 may be considered as having met the requirements of this section but shall be subject to the provisions of subsections P and R of this section.~~

4. ~~No provisions of these regulations shall limit the power of the board to issue an operating permit pursuant to this section in order to remedy a condition that may cause or contribute to the endangerment of human health or welfare or to remedy a nonattainment condition or both.~~

5. ~~Operating a stationary source without a permit issued under this section shall not constitute a violation of this section provided the failure to obtain a permit was due to the failure of the board to issue a permit without specific notice under subsection C 4 or R 5 of this section.~~

6. ~~Any decisions of the board made pursuant to this section may be appealed pursuant to 9 VAC 5-20-90 or Section I B of 9 VAC 5-10-20, Appendix F.~~

D. Applications.

1. ~~Applications for permits shall be signed by the corporate president or by another duly authorized agent of the corporation; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the owner; or, in the case of governmental entities, by the highest executive~~

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~~official of such entities. A person is a duly authorized agent only if the authorization is made in writing by the corporate president or by an equivalently responsible officer in the case of organizations other than corporations. Such signature shall constitute personal affirmation that the statements made in the application are true and complete to the best of the knowledge and belief of the signer.~~

~~2. A single application is required identifying each emission unit subject to this section. The application shall be submitted according to procedures approved by the board. Where several units are included in one stationary source, a single application covering all units in the source shall be submitted. A separate application is required for each location.~~

~~E. Information required.~~

~~1. Each application for a permit shall include such information as may be required by the board to determine the effect of the stationary source on the ambient air quality and to determine compliance with applicable emission standards. The information required shall include, but is not limited to, the following:~~

~~a. All information specified on forms furnished by the board. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations;~~

~~b. Any information or analysis that the board deems necessary to review the air quality impact of the source;~~

~~c. Verification of compliance with the provisions of subsection N of this section; and~~

~~d. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the source.~~

~~2. The above information and analysis shall be determined and presented according to procedures and using methods acceptable to the board.~~

~~F. Standards and conditions for granting permits.~~

~~1. No permit shall be granted pursuant to this section unless it is shown to the satisfaction of the board that the following standards and conditions will be met:~~

~~a. The source shall operate without causing a violation of the applicable provisions of these regulations;~~

~~b. The source shall be in compliance with all applicable emission standards or meet the provisions of any administrative enforcement mechanism issued pursuant to 9 VAC 5-20-30 A 1;~~

~~c. The source shall not cause or contribute to a violation of any applicable ambient air quality standard; and~~

~~d. The source shall operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted so as not to prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard.~~

~~2. Permits may be granted to stationary sources located in nonattainment areas provided the requirements of subsections F 1 a, b and d of this section are met.~~

~~3. To obtain a permit under this section, sources emitting noncriteria pollutants shall be reviewed under Rule 4-3 or Rule 5-3, as may be applicable, for the noncriteria pollutants emitted. If the review has not been completed, the permit may be issued if the permit contains a schedule for the evaluation of the noncriteria pollutants emitted by the affected source.~~

~~4. No permit shall be granted pursuant to this section unless it contains emission standards for the stationary source. The following criteria shall be met in establishing emission standards to the extent necessary to assure that emissions levels are met permanently:~~

~~a. If an emissions unit was subject to emission standards prescribed in these regulations prior to the date the permit is issued, a standard covering the emissions unit and pollutants subject to the emission standards shall be incorporated into the permit issued under this section;~~

~~b. A permit issued under this section may also contain emission standards for emissions units or pollutants that were not subject to emission standards prescribed in these regulations prior to the issuance of the permit;~~

~~c. Each standard shall be based on averaging time periods for the standards as appropriate based on applicable air quality standards, any emission standard applicable to the emissions unit prior to the date the permit is issued, or the operation of the emissions unit, or any combination thereof. The emission standards may include the level, quantity, rate, or concentration or any combination of them for each affected pollutant;~~

~~d. In no case shall a standard result in emissions which would exceed the lesser of the following:~~

~~(1) Allowable emissions for the emissions unit based on emission standards applicable prior to the date the permit is issued; or~~

~~(2) The emissions rate based on the potential to emit of the emissions unit.~~

~~e. The emission standards shall contain emission limitations based on the highest actual emissions documented over the five calendar years prior to the permit application date, taking into account energy, environmental, health related toxic and economic~~

impacts, and other factors. Emission standards shall only include limitations that are determined by the board to be achievable through application of production processes or available methods, systems, and techniques, including, but not limited to, any of the following: emissions control equipment; fuel cleaning or treatment; fuel combustion techniques; or substitution of less toxic or nontoxic materials; and

f. The standard may prescribe, as an alternative to or a supplement to an emission limitation, an equipment, work practice, fuel specification, process materials, maintenance, or operational standard, or any combination of them.

5. In consideration of the factors specified below, the owner may propose and the board may establish an alternative emission standard provided the owner demonstrates to the satisfaction of the board that it meets the standards and conditions in subsection F 1 and F 4 a and d of this section.

a. The impact upon the ability of the source to operate in a competitive and efficient manner.

b. The previous efforts to reduce actual emissions taken at the owner's initiative.

c. The technological and economic practicality of reducing emissions.

d. The impact upon the availability and cost of fuels and process materials.

6. An emissions standard may be changed to allow an increase in emissions level provided the amended standard meets the requirements of subsections F 1 and F 4 a and d of this section, and the increased emission levels would not make the source subject to 9 VAC 5-80-10, 9 VAC 5-80-20, or 9 VAC 5-80-30, as appropriate.

7. Operating permits issued under this section shall contain, but not be limited to, the following elements:

a. Emission standards as set out in this subsection;

b. Conditions necessary to enforce emission standards. Conditions to provide enforceability may include, but not be limited to, the following:

(1) Limit on fuel sulfur content;

(2) Limit on production rates with time frames as appropriate to support the emission standards in this subsection;

(3) Limit on raw material usage rate; and

(4) Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment.

c. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size;

d. Specifications for air pollution control equipment installed or to be installed and the circumstances under which such equipment shall be operated;

e. Specifications for air pollution control equipment operating parameters, where necessary to ensure that the required overall control efficiency is achieved. The operating parameters may include, but not be limited to, the following:

(1) Pressure indicators and required pressure drop;

(2) Temperature indicators and required temperature;

(3) pH indicators and required pH; and

(4) Flow indicators and required flow.

f. The expiration date of the permit; and

g. Other requirements as may be necessary to ensure compliance with the applicable state and federal regulations.

8. Operating permits issued under this section may contain, but not be limited to, the following elements:

a. Requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory;

b. Stack test requirements;

c. Reporting or recordkeeping requirements, or both;

d. Continuous emission or air quality monitoring requirements, or both; and

e. Compliance schedules.

G. Action on permit application.

1. After receipt of an application or any additional information, the board shall advise the applicant of any deficiency in such application or information.

2. When supported by justification which the board deems adequate, the board may, upon request by an owner, extend the expiration date of a permit by a period not to exceed 180 days for the purpose of allowing sufficient time for an owner to correct such deficiencies in the application as have been identified by the board and to allow completion of the application review by the board.

3. Processing time for a permit is normally 90 days following receipt of a complete application. The board may extend this time period if additional information is required. Processing steps may include, but not be limited to:

a. Completion of the preliminary review and analysis in accordance with subsection H of this section and the preliminary decision of the board;

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~~b. Inspection of the stationary source, provided an inspection has not been conducted within the last six months;~~

~~c. Public comment period, when required by subsection S of this section; and~~

~~d. Completion of the final review and analysis and the final decision of the board.~~

~~4. The board normally will take action on all applications after completion of the review and analysis, unless more information is needed. The board shall issue the permit or notify the applicant in writing of its decision, with its reasons, not to issue the permit.~~

~~5. Within five days after receipt of the permit pursuant to subsection G 4 of this section, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.~~

~~H. Application review and analysis. No permit shall be granted pursuant to this section unless compliance with the standards in subsection F of this section is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source by source basis as specified below:~~

~~1. Applications shall be subject to a control technology review to determine if each emissions unit within the source is equipped to comply with all applicable emission standards.~~

~~2. Applications may be subject to an air quality analysis to determine the impact of pollutant emissions.~~

~~I. Compliance determination and verification by testing:~~

~~1. The board may require owners of sources subject to this section to conduct such tests as are necessary to determine the type or amount or both of the pollutants emitted from the source or whether the source will be in compliance with any provisions of any regulation of the board. Such tests shall be conducted in a manner acceptable to the board.~~

~~2. The requirements under subsection I 1 of this section shall be carried out in accordance with the provisions contained in 9 VAC 5 40 10 et seq., 9 VAC 5 50 10 et seq., and 9 VAC 5 60 10 et seq., as applicable, or by other means acceptable to the board.~~

~~J. Monitoring requirements.~~

~~1. The board may require owners of sources subject to this section to install, calibrate, operate and maintain equipment for continuously monitoring and recording emissions or process parameters or both, and establish and maintain records, and make periodic emission reports as the board may prescribe. These requirements shall be conducted in a manner acceptable to the board.~~

~~2. The requirements under subsection J 1 of this section shall be carried out in accordance with the provisions~~

~~contained in 9 VAC 5 40 10 et seq., 9 VAC 5 50 10 et seq., and 9 VAC 5 60 10 et seq., as applicable, or by other means acceptable to the board.~~

~~K. Reporting requirements.~~

~~1. The board may require owners of sources subject to this section to establish and maintain records, provide notifications and reports, revise reports, report emission tests or monitoring results in a manner and form and using procedures as the board may prescribe. Any records, notifications, reports, or tests required under this section shall be retained by the owner for at least two years following the date of such records, notifications, reports or tests.~~

~~2. The requirements under subsection K 1 of this section shall be carried out in accordance with the provisions contained in 9 VAC 5 40 10 et seq., 9 VAC 5 50 10 et seq., and 9 VAC 5 60 10 et seq., as applicable, or by other means acceptable to the board.~~

~~3. If a stationary source is shut down, the owner shall notify the board within six months of the date the source is shut down and the provisions of subsection P 5 of this section shall apply.~~

~~L. Existence of permit no defense. The existence of a permit under this section shall not constitute a defense to a violation of the Virginia Air Pollution Control Law or these regulations and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.~~

~~M. Circumvention. Regardless of the exemptions provided in this section, permits shall be required of owners who circumvent the requirements of this section by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a permit.~~

~~N. Compliance with local zoning requirements. The owner shall comply in all respects with any existing zoning ordinances and regulations in the locality in which the source is located provided, however, that such compliance does not relieve the board of its duty under 9 VAC 5 20 140 of these regulations and 10.1 1307 E of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.~~

~~O. Transfer of permits.~~

~~1. No person shall transfer a permit from one location to another, or from one piece of equipment to another.~~

~~2. In the case of a transfer of ownership or name change of a stationary source, the new owner shall abide by any current permit issued to the previous owner or to the same owner under the previous source name. The new owner shall notify the board of the change in ownership or source name or both within thirty days of the transfer.~~

~~P. Expiration, extension and renewal of permits.~~

1. In cases where a stationary source is operational, a permit or any renewal of one shall be valid for a period not to exceed five years from the date of issuance.

2. In cases where the stationary source has been issued a permit under 9 VAC 5-80-10, 9 VAC 5-80-20, or 9 VAC 5-80-30 and is not operational, a permit or any renewal of one shall be valid for a period not to exceed five years from the date the source or any portion thereof becomes operational.

3. Not less than 180 days prior to the expiration date of the permit, the applicant shall make application for renewal of the permit if the applicant desires to continue operation of that source. Penalties may be assessed if an owner submits an application to the board less than 180 days prior to the expiration date of the permit.

4. The application for renewal of a permit shall be substantiated with current emissions data, test results, reports or other data as deemed necessary by the board.

5. Upon a final decision by the board that a stationary source is shut down permanently, the board shall revoke the permit by written notification to the owner and remove the source from the emission inventory or consider its emissions to be zero in any air quality analysis conducted; and the source shall not commence operation without a permit being issued under the applicable provisions of 9 VAC 5-80-10 et seq.

a. The final decision shall be rendered as follows:

(1) Upon a determination that the source has not operated for a year or more, the board shall provide written notification to the owner (i) of its tentative decision that the source is considered to be shut down permanently and (ii) that if the owner fails to provide within three months of the notice written response to the board that the shutdown is not to be considered permanent, the decision shall become final within six months of the notice. The response from the owner shall include the basis for the assertion that the shutdown is not to be considered permanent and a projected date for restart up of the source.

(2) If the board should find that the basis for the assertion is not sound or the projected restart up date allows for an unreasonably long period of inoperation, the decision to consider the shutdown permanent shall become final one year after the date of the notice of the tentative decision.

b. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that a source is shutdown permanently prior to any final decision rendered under paragraph 5 a of this subsection.

Q. Amendments to permits.

1. Amendments to permits issued under this section may be initiated by the board or the permittee.

2. A permittee shall request an amendment of a permit by applying to the board. The permittee shall include a statement of the reasons why amending the permit is necessary.

3. The board may order appropriate changes to any permit whenever it finds that the conditions of the permit will not be sufficient to meet all of the standards and requirements contained in this section.

4. Permit amendments shall be processed in the same manner and under the same requirements as permits issued under this section.

5. Permit amendments shall not be used to extend the term of the permit.

6. Permit amendments that cause no change in emissions from the source shall be deemed minor amendments, shall be processed in an expedited manner and shall be exempted from the public participation requirements in subsection S.

R. Enforcement.

1. Permits issued under this section shall be subject to such terms and conditions set forth in the permit as the board may deem necessary to ensure compliance with all applicable standards.

2. Regardless of the provisions of subsections P 1 or 2 of this section, the board may revoke any permit prior to its expiration date if the permittee:

a. Willfully makes material misstatements in the permit application or any amendments to it;

b. Fails to comply with the terms or conditions of the permit;

c. Fails to comply with any emission standards applicable to an emissions unit included in the permit;

d. Causes emissions from the stationary source which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted; or

e. Fails to comply with the applicable provisions of 9 VAC 5-80-10, 9 VAC 5-80-20 and 9 VAC 5-80-30.

3. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit for any of the grounds for revocation contained in subsection R 2 of this section or for any other violations of these regulations.

4. Violation of these regulations shall be grounds for revocation of permits issued under this section and are subject to the civil charges, penalties and all other relief

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~~contained in 9 VAC 5-20-10 et seq. and 10.1-1309, 10.1-1311 and 10.1-1316 of the Virginia Air Pollution Control Law.~~

~~5. The board shall notify the applicant in writing of its decision, with its reasons, to change, suspend or revoke a permit.~~

~~S. Public participation.~~

~~1. Prior to the decision of the board, permit applications for major stationary sources shall be subject to a public comment period of at least 30 days.~~

~~2. When a public comment period is required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment on the information available for public inspection under the provisions of paragraph 2 a of this subsection.~~

~~a. Information on the permit application (exclusive of confidential information under 9 VAC 5-20-150), as well as the preliminary review and analysis and tentative determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.~~

~~b. A copy of the notice shall be sent to all local air pollution control agencies having State Implementation Plan responsibilities in the affected air quality control region, all states sharing the affected air quality control region, and to the regional administrator, U.S. Environmental Protection Agency.~~

~~3. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to reconsider the tentative determination of the board. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:~~

~~a. The name, mailing address and telephone number of the requester;~~

~~b. The names and addresses of all persons for whom the requester is acting as a representative;~~

~~c. The reason why a hearing is requested; and~~

~~d. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the decision of the board.~~

~~4. The board shall review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper; and within 30 calendar days following the~~

~~expiration of the public comment period shall grant a public hearing if it finds the following:~~

~~a. There is significant public interest in the permit application in question; and~~

~~b. There are substantial, disputed issues relevant to the permit application in question.~~

~~5. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of procedures for the public hearing and for the final decision under this section.~~

~~6. If the board decides to hold a public hearing, the hearing shall be scheduled at a time between 30 and 60 days after mailing the notification required in subsection S-5 of this section.~~

~~7. The procedures for notification to the public and availability of information used for the public comment period or provided in paragraph 2 of this subsection shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.~~

~~8. The requirements of this subsection that provide for a public hearing shall not apply to the renewal of permits provided the renewed permit does not allow an increase in any pollutant emissions.~~

~~PART II.~~

~~FEDERAL OPERATING PERMITS AND PERMIT PROGRAM FEES FOR STATIONARY SOURCES.~~

~~Article 5.~~

~~State Operating Permits.~~

~~9 VAC 5-80-800. Applicability.~~

~~A. Within the limits of subsection C of this section, the provisions of this article apply to the operation of any stationary source or emissions unit of a regulated air pollutant.~~

~~B. The provisions of this article apply throughout the Commonwealth of Virginia.~~

~~C. Permits may be issued under this article in situations including, but not limited to, the following:~~

~~1. At the request of any owner:~~

~~a. To designate a stationary source or emissions unit as a synthetic minor;~~

~~b. To combine a stationary source's or emissions unit's requirements under multiple permits into one permit; or~~

~~c. To implement emissions trading requirements.~~

~~2. At the discretion of the board:~~

~~a. To cap the emissions of a stationary source or emissions unit contributing to a violation of any air quality standard; or~~

b. To establish a source-specific emission standard or other requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law.

D. A permit may be issued under this article regardless of other permits in force provided that it does not contravene any provision of any of the other permits.

E. For permits issued pursuant to the provisions of subdivision C 2 of this section, a permit application is not required from the stationary source or emissions unit, and the provisions of 9 VAC 5-80-830 and 9 VAC 5-80-860 do not apply.

9 VAC 5-80-810. Definitions.

A. For the purpose of this article and subsequent amendments or any orders issued by the board, the words or terms shall have the meaning given them in subsection C of this section.

B. As used in this article, all terms not defined here shall have the meaning given them in 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.), unless otherwise required by context.

C. Terms defined.

"Actual emissions" means the actual rate of emissions of a pollutant from any stationary source or emissions unit. In general, actual emissions as of a particular date shall equal the highest annual rate, in tons per calendar year, at which the stationary source or emissions unit actually emitted a pollutant during the consecutive five-year period which precedes the particular date and which is representative of normal stationary source or emissions unit operation. The board may allow the use of a different historical time period upon a determination that it is more representative of normal stationary source or emissions unit operation. Actual emissions shall be calculated using the stationary source's or emissions unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

"Allowable emissions" means the emission rates of a stationary source or emission unit calculated by using the maximum rated capacity of the emissions units within the stationary source or emissions unit (unless the stationary source or emissions unit is subject to state or federally enforceable limits which restrict the operating rate or hours of operation or both) and the most stringent of the following:

1. Applicable emission standards;
2. The emission limitation specified as a state or federally enforceable permit condition, including those with a future compliance date; or
3. Any other applicable emission limitation, including those with a future compliance date.

"Complete application" or "complete request" means that the application or request contains all the information necessary for processing the application or request. Designating an application or request complete for purposes

of permit processing does not preclude the board from requesting or accepting additional information.

"Contributing to a violation" means, in reference to the potential of a stationary source or emissions unit to emit any of the following pollutants, an air quality impact greater than any of the following amounts:

Carbon monoxide - 500 $\mu\text{g}/\text{m}^3$, 8-hour average

Carbon monoxide - 2,000 $\mu\text{g}/\text{m}^3$, 1-hour average

Nitrogen dioxide - 1 $\mu\text{g}/\text{m}^3$, annual average

PM₁₀ - 1 $\mu\text{g}/\text{m}^3$, annual average

PM₁₀ - 5 $\mu\text{g}/\text{m}^3$, 24-hour average

Sulfur dioxide - 1 $\mu\text{g}/\text{m}^3$, annual average

Sulfur dioxide - 5 $\mu\text{g}/\text{m}^3$, 24-hour average

Sulfur dioxide - 25 $\mu\text{g}/\text{m}^3$, 3-hour average

"Emissions cap" means any limitation on the rate of emissions of any regulated air pollutant from one or more emissions units established and identified as an emissions cap in any permit issued pursuant to the new source review program or operating permit program.

"Emissions unit" means any part of a stationary source which emits or would have the potential to emit any regulated air pollutant.

"Enforceable as a practical matter" means that the permit contains emission limitations that are enforceable by the board or the department and meet the following criteria:

1. Are permanent.
2. Contain a legal obligation for the owner to adhere to the terms and conditions.
3. Do not allow a relaxation of a requirement of the state implementation plan.
4. Are technically accurate and quantifiable.
5. Identify an averaging time that allows at least monthly (or a shorter period if necessary to be consistent with the state implementation plan) checks on compliance.
6. Require a level of recordkeeping, reporting and monitoring sufficient to demonstrate compliance.

"Existing stationary source" means any stationary source other than a new source.

"Federally enforceable" means all limitations and conditions which are enforceable by the administrator, including those requirements developed pursuant to 40 CFR Parts 60, 61, and 63, requirements within the State Implementation Plan, and any permit requirements established pursuant to (i) a new source review program or (ii) this article, provided the public participation requirements of 9 VAC 5-80-1020 are met.

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"General permit" means a permit issued under this article that meets the requirements of 9 VAC 5-80-1030.

"Major stationary source" means any stationary source which emits, or has the potential to emit, 100 tons or more per year of any regulated air pollutant.

"New source review program" means a program for the preconstruction review and permitting of new sources or emissions units or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§ 110(a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas) and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act.

"New source" means any stationary source (or portion of it), the construction or relocation of which commenced on or after March 17, 1972, and any stationary source (or portion of it), the reconstruction of which commenced on or after December 10, 1976.

"Nonattainment condition" means a condition where any area is shown by air quality monitoring data or which is shown by an air quality impact analysis (using modeling or other methods determined by the board to be reliable) to exceed the levels allowed by the ambient air quality standard for a given pollutant, regardless of whether such demonstration is based on current or future emissions data.

"Owner" means any person, including bodies politic and corporate, associations, partnerships, personal representatives, trustees and committees, as well as individuals, who owns, leases, operates, controls or supervises a stationary source.

"Potential to emit" means the maximum capacity of a stationary source or emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the stationary source or emissions unit to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state or federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source or emissions unit.

"Regulated air pollutant" means any of the following:

1. Nitrogen oxides or any volatile organic compound.
2. Any pollutant for which an ambient air quality standard has been promulgated.
3. Any pollutant subject to any standard promulgated under § 111 of the federal Clean Air Act.
4. Any Class I or II substance subject to a standard promulgated under or established by Title VI of the federal Clean Air Act concerning stratospheric ozone protection.

5. Any pollutant subject to a standard promulgated under or other requirements established under § 112 of the federal Clean Air Act concerning hazardous air pollutants and any pollutant regulated under Subpart C of 40 CFR 68.

6. Any pollutant subject to a regulation adopted by the board.

7. Any pollutant subject to regulation under the Virginia Air Pollution Control Law.

"Regulations of the board" means regulations adopted by the State Air Pollution Control Board under a provision of the Code of Virginia.

"Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source, but do not come from the major stationary source itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"State-enforceable" means all limitations and conditions which are enforceable as a practical matter, including those requirements developed pursuant to 9 VAC 5-20-110, requirements within any applicable order or variance, and any permit requirements established pursuant to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.).

"Stationary source" means any building, structure, facility or installation which emits or may emit any air pollutant. A stationary source shall include all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "major group" (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual (see 9 VAC 5-20-21).

"Synthetic minor" means a stationary source whose potential to emit is constrained by state-enforceable limits, by federally enforceable limits, or by both so as to place that stationary source below the threshold at which it would be subject to permit or other requirements in regulations of the board or in the federal Clean Air Act.

9 VAC 5-80-820. General.

A. The board may issue permits whose applicability is limited to one specific pollutant or to multiple specific pollutants emitted by a stationary source or emissions unit. It may also issue permits whose applicability is limited to one specific emissions unit or multiple specific emissions units within a stationary source. The issuance of such permits

may occur in any of the situations specified in 9 VAC 5-80-800 C.

B. The board may combine the requirements of and the permits for emission units within a stationary source or emissions unit subject to 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) into one permit. The board may likewise combine the requirements of and applications for permits for emission units within a stationary source or emissions unit required by 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.) into one application.

C. Permits issued under the provisions of 9 VAC 5-80-10, 9 VAC 5-80-30, or Article 8 (9 VAC 5-80-1700 et seq.) of this part may be considered as having met the requirements of this article but shall be subject to the provisions of 9 VAC 5-80-950, 9 VAC 5-80-960, 9 VAC 5-80-970, 9 VAC 5-80-980, 9 VAC 5-80-990, 9 VAC 5-80-1000, and 9 VAC 5-80-1010.

D. No provision of regulations of the board shall limit the power of the board to issue an operating permit pursuant to this article in order to remedy a condition that may cause or contribute to the endangerment of human health or welfare.

E. Any decisions of the board made pursuant to this article may be appealed pursuant to 9 VAC 5-20-90 or 9 VAC 5-20-130 B 2.

9 VAC 5-80-830. Applications.

A. For permits issued under the provisions of 9 VAC 5-80-800 C 1, a single complete application is required identifying each emissions unit to be covered by the permit. The application shall be submitted according to procedures approved by the board. Where several units are included in one stationary source, a single complete application shall be submitted covering all units which are to be permitted in the stationary source. A separate complete application is required for each stationary source.

B. Any application form, report, or compliance certification submitted to the board shall meet the requirements of 9 VAC 5-20-230.

9 VAC 5-80-840. Application information required.

A. The board shall furnish application forms to applicants.

B. Each application for a permit under the provisions of 9 VAC 5-80-800 C 1 shall include, but not be limited to, the following:

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.
2. A description of the source's processes and products (by Standard Industrial Classification Code).
3. All emissions of regulated air pollutants.
 - a. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit to be covered by the permit.

b. Emissions shall be calculated as required in the permit application form or instructions.

c. Fugitive emissions shall be included in the permit application to the extent quantifiable.

4. Emissions rates in tons per year and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.

5. Information needed to determine or regulate emissions as follows: fuels, fuel use, raw materials, production rates, loading rates, and operating schedules.

6. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

7. Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated air pollutants at the source.

8. Calculations on which the information in subdivisions 3 through 7 of this subsection is based. Any calculations shall include sufficient detail to permit assessment of the validity of such calculations.

9. Any additional information or documentation that the board deems necessary to review and analyze the air pollution aspects of the stationary source or emissions unit.

C. The above information and analysis shall be determined and presented according to procedures and using methods acceptable to the board.

D. For permits issued pursuant to the provisions of 9 VAC 5-80-800 C 2, the provisions of subsections A and B of this section do not apply.

E. For permits issued pursuant to the provisions of 9 VAC 5-80-800 C 2, the board may request any information or documentation that it deems necessary to review and analyze the air pollution aspects of the stationary source or emissions unit.

9 VAC 5-80-850. Standards and conditions for granting permits.

A. A permit may be granted pursuant to this article if it is shown to the satisfaction of the board that the following standards and conditions will be met:

1. The stationary source or emissions unit shall operate without causing a violation of the applicable provisions of regulations of the board;
2. The stationary source or emissions unit shall be in compliance with all applicable emission standards or meet the provisions of any administrative enforcement mechanism issued pursuant to 9 VAC 5-20-30 A 1; and
3. The stationary source or emissions unit shall operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that

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an application is submitted so as not to prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard.

B. Permits may be granted to stationary sources or emissions unit located in nonattainment areas provided the requirements of subdivisions A 1 and 2 of this section are met.

C. Permits granted pursuant to this article may contain emissions standards as necessary to implement the provisions of this article. The following criteria shall be met in establishing emission standards to the extent necessary to assure that emissions levels are enforceable as a practical matter:

1. Standards shall be based on averaging time periods for the standards as appropriate based on applicable air quality standards, any emission standard applicable to the emissions unit prior to the date the permit is issued, or the operation of the emissions unit, or any combination thereof. The emission standards may include the level, quantity, rate, or concentration or any combination of them for each affected pollutant.

2. In no case shall a standard result in emissions which would exceed the lesser of the following:

a. Allowable emissions for the emissions unit based on emission standards applicable prior to the date the permit is issued; or

b. The emissions rate based on the potential to emit of the emissions unit.

3. Emission standards shall only include limitations that are determined by the board to be achievable through application of production processes or available methods, systems, and techniques, including, but not limited to, any of the following: emissions control equipment, fuel cleaning or treatment, fuel combustion techniques, or substitution of less toxic or nontoxic materials.

4. The standard may prescribe, as an alternative to or a supplement to an emission limitation, an equipment, work practice, fuels specification, process materials, maintenance, or operational standard, or any combination of them.

D. In consideration of the factors specified below, the owner may propose and the board may establish an alternative emission standard provided the owner demonstrates to the satisfaction of the board that it meets the standards and conditions in subsection A and subdivision C 2 of this section and is enforceable as a practical matter.

1. The impact upon the ability of the stationary source or emissions unit to operate in a competitive and efficient manner.

2. The previous efforts to reduce actual emissions taken at the owner's initiative.

3. The technological and economic practicality of reducing emissions.

4. The impact upon the availability and cost of fuels and process materials.

E. An emissions standard may be changed to allow an increase in emissions level provided the amended standard meets the requirements of subsection A of this section and the increased emission levels would not make the stationary source or emissions unit subject to the new source review program.

F. Operating permits issued under this article may contain, but not be limited to, any the following elements as necessary to ensure that the permits are enforceable as a practical matter:

1. Emission standards as set out in this section.

2. Conditions necessary to enforce emission standards. Conditions to provide enforceability may include, but not be limited to, the following:

a. Limit on fuel sulfur content;

b. Limit on production rates with time frames as appropriate to support the emission standards in this section;

c. Limit on raw material usage rate; and

d. Limits on the minimum required capture, removal and overall control efficiency for any air pollution control equipment.

3. Specifications for permitted equipment, identified as thoroughly as possible. The identification shall include, but not be limited to, type, rated capacity, and size.

4. Specifications for air pollution control equipment installed or to be installed and the circumstances under which such equipment shall be operated.

5. Specifications for air pollution control equipment operating parameters, where necessary to ensure that the required overall control efficiency is achieved. The operating parameters may include, but not be limited to, the following:

a. Pressure indicators and required pressure drop;

b. Temperature indicators and required temperature;

c. pH indicators and required pH; and

d. Flow indicators and required flow.

6. Requirements for proper operation and maintenance of any pollution control equipment, and appropriate spare parts inventory.

7. Stack test requirements.

8. Reporting or recordkeeping requirements, or both.

9. Continuous emission or air quality monitoring requirements, or both.

10. Compliance schedules.

11. Other requirements as may be necessary to ensure compliance with the applicable state and federal regulations.

9 VAC 5-80-860. Action on permit application.

A. After receipt of an application or any additional information, the board shall advise the applicant in writing of any deficiency in such application or information no later than 30 days after receipt of the application or additional information.

B. If no public comment period is required, processing time for a permit is normally 90 days following receipt of a complete application. If a public comment period is required, processing time for a permit is normally 180 days following receipt of a complete application. The board may extend this time period if additional information is required. Processing steps may include, but not be limited to:

1. Completion of the preliminary review and analysis in accordance with 9 VAC 5-80-870 and the preliminary decision of the board;
2. Inspection of the stationary source or emissions unit, provided an inspection has not been conducted within the last six months;
3. Public comment period, when required by 9 VAC 5-80-1020; and
4. Completion of the final review and analysis and the final decision of the board.

C. The board will normally take action on all complete applications after completion of the review and analysis, unless more information is needed. The board shall issue the permit or notify the applicant in writing of its decision, with its reasons, not to issue the permit.

D. Within five days after receipt of the permit pursuant to subsection B of this section, the applicant shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to the board upon request.

E. Appeals of decisions rendered pursuant to this article shall follow the procedures outlined in 9 VAC 5-20-90.

9 VAC 5-80-870. Application review and analysis.

A. No permit shall be granted pursuant to this article unless compliance with the standards in 9 VAC 5-80-850 is demonstrated to the satisfaction of the board by a review and analysis of the application performed on a source-by-source basis as specified below:

1. Applications shall be subject to a control technology review to determine if each emissions unit that is to be permitted within the stationary source is equipped to comply with all applicable emission standards.
2. Applications may be subject to an air quality analysis to determine the impact of pollutant emissions.

B. If the board has reason to believe that a source may be in violation of an air quality standard, it may require an air quality impact model. All applications of air quality modeling involved in any air quality analysis required by this article shall be based on the applicable air quality models, data bases, and other requirements specified in Appendix W to 40 CFR Part 51.

C. Where an air quality impact model specified in Appendix W to 40 CFR Part 51 is inappropriate, the model may be modified or another model substituted. Such a modification or substitution of a model may be made on a case-by-case basis, or, where appropriate, on a generic basis for a specific state program. Written approval of the board must be obtained for any modification or substitution. In addition, use of a modified or substituted model shall be subject to notice and opportunity for public comment under 9 VAC 5-80-1020.

9 VAC 5-80-880. Compliance determination and verification by testing.

A. The board may require owners of sources subject to this article to conduct such tests as are necessary to determine the type or amount or both of the pollutants emitted from the stationary source or emissions unit or whether the stationary source or emissions unit will be in compliance with any provisions of any regulation of the board. Such tests shall be conducted in a manner acceptable to the board.

B. The requirements under subsection A of this section shall be carried out in accordance with the provisions contained in Part I (9 VAC 5-40-10 et seq.) of 9 VAC 5 Chapter 40, Part I (9 VAC 5-50-10 et seq.) of 9 VAC 5 Chapter 50, and Part I (9 VAC 5-60-10 et seq.) of 9 VAC 5 Chapter 60, as applicable, or by other means acceptable to the board.

9 VAC 5-80-890. Monitoring requirements.

A. The board may require owners of stationary sources subject to this article to install, calibrate, operate and maintain equipment for continuously monitoring and recording emissions or process parameters or both, and establish and maintain records, and make periodic emission reports as the board may prescribe. These requirements shall be conducted in a manner acceptable to the board.

B. The requirements under subsection A of this section shall be carried out in accordance with the provisions contained in Part I (9 VAC 5-40-10 et seq.) of 9 VAC 5 Chapter 40, Part I (9 VAC 5-50-10 et seq.) of 9 VAC 5 Chapter 50, and Part I (9 VAC 5-60-10 et seq.) of 9 VAC 5 Chapter 60, as applicable, or by other means acceptable to the board.

9 VAC 5-80-900. Reporting requirements.

A. The board may require owners of stationary sources subject to this article to establish and maintain records, provide notifications and reports, revise reports, report emission tests or monitoring results in a manner and form and using procedures as the board may prescribe. Any

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records, notifications, reports, or tests required under this section shall be retained by the owner for at least three years following the date of such records, notifications, reports or tests. If an owner wishes to request the establishment of an average emissions baseline for a period longer than three years, that owner must maintain records for that period.

B. The requirements under subsection A of this section shall be carried out in accordance with the provisions contained in Part 1 (9 VAC 5-40-10 et seq.) of 9 VAC 5 Chapter 40, Part 1 (9 VAC 5-50-10 et seq.) of 9 VAC 5 Chapter 50, and Part 1 (9 VAC 5-60-10 et seq.) of 9 VAC 5 Chapter 60, as applicable, or by other means acceptable to the board.

C. If a stationary source or emissions unit is shut down, the owner shall notify the board within six months of the date the stationary source or emissions unit is shut down and the provisions of 9 VAC 5-80-950 shall apply.

9 VAC 5-80-910. Existence of permit no defense.

The existence of a permit under this article shall not constitute a defense to a violation of the Virginia Air Pollution Control Law or regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

9 VAC 5-80-920. Circumvention.

Regardless of the exemptions provided in this article, permits shall be required of owners who circumvent the requirements of this article by causing or allowing a pattern of ownership or development over a geographic area of a stationary source which, except for the pattern of ownership or development, would otherwise require a permit.

9 VAC 5-80-930. Compliance with local zoning requirements.

No provision of this article or any permit issued thereunder shall relieve any owner from the responsibility to comply in all respects with any existing zoning ordinances and regulations in the locality in which the stationary source is located provided, however, that such compliance does not relieve the board of its duty under 9 VAC 5-20-140 and § 10.1-1307 E of the Virginia Air Pollution Control Law to independently consider relevant facts and circumstances.

9 VAC 5-80-940. Transfer of permits.

A. No person shall transfer a permit from one location to another, or from one piece of equipment to another.

B. In the case of a transfer of ownership or name change of a stationary source, the new owner shall abide by any current permit issued to the previous owner or to the same owner under the previous source name. The new owner shall notify the board of the change in ownership or source name or both within 30 days of the transfer or name change.

9 VAC 5-80-950. Termination of permits.

A. A permit or any amendment thereof shall be valid for the life of the source unless the board terminates the permit under the conditions of subsections B or C of this section.

B. The board may terminate a permit with the consent of the owner for good cause shown by the owner or on its own motion provided that the termination is accomplished in accordance with the provisions of regulations of the board and the Administrative Process Act.

C. Upon a final determination that a stationary source or emissions unit is shut down permanently, the board shall revoke any permits for that source or emissions unit in accordance with 9 VAC 5-20-220.

9 VAC 5-80-960. Changes to permits.

A. The general requirements for making changes to permits are as follows:

1. Changes to a permit issued under this article shall be made as specified under subsections B and C of this section and 9 VAC 5-80-970 through 9 VAC 5-80-1000.

2. Changes to a permit issued under this article may be initiated by the permittee as specified in subsection B of this section or by the board as specified in subsection C of this section.

3. Changes to a permit issued under this article and incorporated into a permit issued under Article 1 (9 VAC 5-80-50 et seq.) of this part shall be made as specified in Article 1 (9 VAC 5-80-50 et seq.) of this part.

4. This section shall not be applicable to general permits.

B. The requirements for changes initiated by the permittee are as follows:

1. The permittee may initiate a change to a permit by submitting a written request to the board for an administrative permit amendment, a minor permit amendment or a significant permit amendment. The requirements for these permit revisions can be found in 9 VAC 5-80-970 through 9 VAC 5-80-990.

2. A request for a change by a permittee shall include a statement of the reason for the proposed change.

C. The board may initiate a change to a permit through the use of permit reopenings as specified in 9 VAC 5-80-1000.

9 VAC 5-80-970. Administrative permit amendments.

A. Administrative permit amendments shall be required for and limited to the following:

1. Correction of typographical or any other error, defect or irregularity which does not substantially affect the permit.

2. Identification of a change in the name, address, or phone number of any person identified in the permit, or of a similar minor administrative change at the source.

3. Change in ownership or operational control of a source where the board determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the board and the requirements of 9 VAC 5-80-940 have been fulfilled.

4. The combining of permits as provided in 9 VAC 5-80-800 C 1 b.

B. The administrative permit amendment procedures are as follows:

1. The board will normally take final action on a complete request for an administrative permit amendment no more than 60 days from receipt of the request.

2. The board shall incorporate the changes without providing notice to the public under 9 VAC 5-80-1020. However, any such permit revisions shall be designated in the permit amendment as having been made pursuant to this section.

3. The owner may implement the changes addressed in the request for an administrative amendment immediately upon submittal of the request.

9 VAC 5-80-980. Minor permit amendments.

A. Minor permit amendment procedures shall be used only for those permit amendments that:

1. Do not violate any applicable regulatory requirement;
2. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements;
3. Do not require or change a case-by-case determination of an emission limitation or other standard;
4. Do not seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

- a. An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act; and
 - b. An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act;
5. Are not modifications under the new source review program or under § 112 of the federal Clean Air Act; and

6. Are not required to be processed as a significant amendment under 9 VAC 5-80-990; or as an administrative permit amendment under 9 VAC 5-80-970.

B. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for permit amendments involving the use of economic incentives, emissions trading, and other similar approaches, to the extent that such minor permit amendment procedures are explicitly provided for in a regulation of the board or a federally-approved program. Minor permit amendment procedures may also be used to require more frequent monitoring or reporting by the permittee or to reduce the level of an emissions cap.

C. Notwithstanding subsection A of this section, minor permit amendment procedures may be used for permit amendments involving the rescission of a provision of a permit provided there is made by the board and the owner a mutual determination that the provision is rescinded because all of the statutory or regulatory requirements (i) upon which the provision is based or (ii) that necessitated inclusion of the provision are no longer applicable.

D. A request for the use of minor permit amendment procedures shall include all of the following:

1. A description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs.
2. A request that such procedures be used.

E. The public participation requirements of 9 VAC 5-80-1020 shall not extend to minor permit amendments.

F. Normally within 90 days of receipt by the board of a complete request under minor permit amendment procedures, the board will do one of the following:

1. Issue the permit amendment as proposed.
2. Deny the permit amendment request.
3. Determine that the requested amendment does not meet the minor permit amendment criteria and should be reviewed under the significant amendment procedures.

G. The requirements for making changes are as follows:

1. The owner may make the change proposed in the minor permit amendment request immediately after the complete request is filed.
2. After the change under subdivision 1 of this subsection is made, and until the board takes any of the actions specified in subsection E of this section, the source shall comply with both the applicable regulatory requirements governing the change and the proposed permit terms and conditions.
3. During the time period specified in subdivision 2 of this subsection, the owner need not comply with the existing permit terms and conditions he seeks to modify. However, if the owner fails to comply with the proposed

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permit terms and conditions during this time period, the existing permit terms and conditions he seeks to modify may be enforced against him.

9 VAC 5-80-990. Significant amendment procedures.

A. The criteria for use of significant amendment procedures are as follows:

1. Significant amendment procedures shall be used for requests for permit amendments that do not qualify as minor permit amendments under 9 VAC 5-80-980 or as administrative amendments under 9 VAC 5-80-970.

2. Significant amendment procedures shall be used for those permit amendments that:

a. Involve significant changes to existing monitoring, reporting, or recordkeeping requirements that would make the permit requirements less stringent, such as a change to the method of monitoring to be used, a change to the method of demonstrating compliance or a relaxation of reporting or recordkeeping requirements.

b. Require or change a case-by-case determination of an emission limitation or other standard.

c. Seek to establish or change a permit term or condition (i) for which there is no corresponding underlying applicable regulatory requirement and (ii) that the source has assumed to avoid an applicable regulatory requirement to which the source would otherwise be subject. Such terms and conditions include:

(1) An emissions cap assumed to avoid classification as a modification under the new source review program or § 112 of the federal Clean Air Act.

(2) An alternative emissions limit approved pursuant to regulations promulgated under § 112(i)(5) of the federal Clean Air Act.

B. A request for a significant permit amendment shall include the following:

1. A description of the change, the emissions resulting from the change, and any new applicable regulatory requirements that will apply if the change occurs.

2. A suggested draft permit prepared by the applicant.

C. The provisions of 9 VAC 5-80-1020 shall apply to applications made under this section.

D. The board will normally take final action on significant permit amendments within 90 days after receipt of a complete request.

E. The owner shall not make the change applied for in the significant amendment request until the amendment is approved by the board under subsection D of this section.

9 VAC 5-80-1000. Reopening for cause.

A. A permit may be reopened and revised in any of the following situations:

1. Additional regulatory requirements or changes to existing requirements become applicable to emissions units or pollutants covered by the permit.

2. The board determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.

3. The board determines that the permit must be revised to assure compliance with the applicable regulatory requirements or that the conditions of the permit will not be sufficient to meet all of the standards and requirements contained in this article.

B. Proceedings to reopen and reissue a permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists. Such reopening shall be made as expeditiously as practicable.

C. Reopenings shall not be initiated before a notice of such intent is provided to the source by the board at least 30 days in advance of the date that the permit is to be reopened, except that the board may provide a shorter time period in the case of an emergency.

9 VAC 5-80-1010. Enforcement.

A. Permits issued under this article shall be subject to such terms and conditions set forth in the permit as the board may deem necessary to ensure compliance with all applicable standards.

B. Regardless of the provisions of 9 VAC 5-80-950, the board may revoke any permit if the permittee:

1. Willfully makes material misstatements in the permit application or any amendments to it;

2. Fails to comply with the terms or conditions of the permit;

3. Fails to comply with any emission standards applicable to an emissions unit included in the permit;

4. Causes emissions from the stationary source or emissions unit which result in violations of, or interfere with the attainment and maintenance of, any ambient air quality standard; or fails to operate in conformance with any applicable control strategy, including any emission standards or emission limitations, in the State Implementation Plan in effect at the time that an application is submitted; or

5. Fails to comply with the applicable provisions of 9 VAC 5-80-10, 9 VAC 5-80-30 and Article 8 (9 VAC 5-80-1700 et seq.) of this part.

C. The board may suspend, under such conditions and for such period of time as the board may prescribe, any permit

for any of the grounds for revocation contained in subsection B of this section or for any other violations of regulations of the board.

D. Violation of regulations of the board shall be grounds for revocation of permits issued under this article and are subject to the civil charges, penalties and all other relief contained in Part I (9 VAC 5-20-10 et seq.) of 9 VAC 5 Chapter 20 and §§ 10.1-1309, 10.1-1311 and 10.1-1316 of the Virginia Air Pollution Control Law.

E. The board shall notify the applicant in writing of its decision, with its reasons, to change, suspend or revoke a permit.

F. Nothing in the regulations of the board shall be construed to prevent the board and the owner from making a mutual determination that a permit is invalid or revoked prior to any final decision rendered under subsection B of this section.

G. Nothing in these regulations shall be construed to prevent the board and the owner from making a mutual determination that a permit is rescinded because all of the statutory or regulatory requirements (i) upon which the permit is based or (ii) that necessitated issuance of the permit are no longer applicable.

9 VAC 5-80-1020. Public participation.

A. Prior to the decision of the board, permit applications for permits containing provisions that are necessary for the permit to be federally enforceable shall be subject to a public comment period of at least 30 days.

B. When a public comment period is required, the board shall notify the public, by advertisement in at least one newspaper of general circulation in the affected air quality control region, of the opportunity for public comment on the information available for public inspection under the provisions of subsection A of this section. The notification shall be published at least 30 days prior to the day of the public hearing.

1. Information on the permit application (exclusive of confidential information under 9 VAC 5-20-150), as well as the preliminary review and analysis and tentative determination of the board, shall be available for public inspection during the entire public comment period in at least one location in the affected air quality control region.

2. A copy of the notice shall be sent to all affected local air pollution control agencies, to all states sharing the affected air quality control region, to the regional administrator of the U.S. Environmental Protection Agency, and to any other governmental entity required to be notified under state or federal law or regulation.

3. Notices of public hearings published under this section shall meet the requirements of § 10.1-1307.01 of the Air Pollution Control Law.

C. Following the initial publication of notice of a public comment period, the board will receive written requests for a public hearing to reconsider the tentative determination of the board. The request shall be submitted within 30 days of the appearance of the notice in the newspaper. Request for a public hearing shall contain the following information:

1. The name, mailing address and telephone number of the requester;
2. The names and addresses of all persons for whom the requester is acting as a representative;
3. The reason why a hearing is requested; and
4. A brief, informal statement setting forth the factual nature and the extent of the interest of the requester or of the persons for whom the requester is acting as representative, including an explanation of how and to what extent such interest would be directly and adversely affected by the decision of the board.

D. The board will normally review all timely requests for public hearing filed during the 30 days following the appearance of the public comment notice in the newspaper; and normally within 30 calendar days following the expiration of the public comment period will grant a public hearing if it finds the following:

1. There is significant public interest in the permit application in question; and
2. There are substantial, disputed issues relevant to the permit application in question.

E. The board shall notify by mail the applicant and each requester, at his last known address, of the decision to convene or deny a public hearing. The notice shall contain a description of procedures for the public hearing and for the final decision under this section.

F. If the board decides to hold a public hearing, the hearing will normally be scheduled at a time between 30 and 60 days after mailing the notification required in subsection E of this section.

G. The procedures for notification to the public and availability of information used for the public comment period or provided in subsection B of this section shall also be followed for the public hearing. The hearing shall be held in the affected air quality control region.

9 VAC 5-80-1030. General permits.

A. The requirements for issuance of a general permit are as follows:

1. The board may issue a general permit covering a stationary source or emissions unit category containing numerous similar stationary sources or emissions units that meet the following criteria:

- a. All stationary sources or emissions units in the category shall be essentially the same in terms of

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operations and processes and emit either the same pollutants or those with similar characteristics.

b. Stationary sources or emissions units shall not be subject to case-by-case standards or requirements.

c. Stationary sources or emissions units shall be subject to the same or substantially similar requirements governing operation, emissions, monitoring, reporting, or recordkeeping.

2. Stationary sources or emissions units subject to a general permit shall comply with all requirements applicable to other permits issued under this article.

3. General permits shall (i) identify the criteria by which stationary sources or emissions units may qualify for the general permit and (ii) describe the process for stationary sources or emissions units to use in applying for the general permit.

4. General permits shall be issued in accordance with § 9-6.14:4.1 C 11 of the Administrative Process Act.

5. In addition to fulfilling the requirements specified by law, the notice of public comment shall include, but not be limited to, the following:

a. The name, address and telephone number of a department contact from whom interested persons may obtain additional information including copies of the draft general permit.

b. The criteria to be used in determining which stationary sources or emissions units qualify for the general permit.

c. A brief description of the stationary source or emissions unit category that the department believes qualifies for the general permit including, but not limited to, an estimate of the number of individual stationary sources or emissions units in the category.

d. A narrative statement of the estimated air quality impact contributed by the stationary source or emissions unit category covered by the general permit including information regarding specific pollutants and the total quantity of each emitted pollutant and the type and quantity of fuels used, if applicable.

e. A brief description of the application process to be used by stationary sources or emissions units to request coverage under the general permit.

f. A brief description of the comment procedures required by 9 VAC 5-80-1020.

B. The requirements for application for a general permit are as follows:

1. Stationary sources or emissions units that would qualify for a general permit shall apply to the board for coverage under the terms of the general permit. Stationary sources or emissions units that do not qualify

for a general permit shall apply for coverage under a permit issued under the other provisions of this article.

2. The application shall meet the requirements of this article and include all information necessary to determine qualification for and to assure compliance with the general permit.

3. Stationary sources or emissions units that become subject to the general permit after it is issued to other stationary sources or emissions units in the category addressed by the general permit shall file an application with the board using the application process described in the general permit. The board shall issue the general permit to the stationary source or emissions unit if it determines that the stationary source or emissions unit meets the criteria set out in the general permit.

C. The requirements for issuance of a general permit are as follows:

1. The board shall grant the conditions and terms of the general permit to stationary sources or emissions units that meet the criteria set out in the general permit covering the specific stationary source or emissions unit category.

2. The issuance of a permit to a stationary source or emissions unit covered by a general permit shall not require compliance with the public participation procedures under 9 VAC 5-80-1020.

3. A response to each general permit application may not be provided. The general permit may specify a reasonable time period after which a stationary source or emissions unit that has submitted a complete application shall be deemed to be authorized to operate under the general permit.

4. Stationary sources or emissions units covered under a general permit may be issued a letter, a certificate, or a summary of the general permit provisions, limits, and requirements, or any other document which would attest that the stationary source or emissions unit is covered by the general permit.

5. The general permit shall specify where the general permit and the letter, certificate, summary or other document shall be maintained by the source.

D. The requirements for enforcement of a general permit are as follows:

1. The stationary source or emissions unit shall be subject to enforcement action under 9 VAC 5-80-1010 for operation without a permit issued under this article if the stationary source or emissions unit is later determined by the board or the administrator not to qualify for the conditions and terms of the general permit.

2. The act of granting or denying a request for authorization to operate under a general permit shall not be subject to judicial review.

9 VAC 5-80-1040. Review and evaluation of article.

A. Prior to (three years after effective date of article), the department shall perform an analysis on this article and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the article, (ii) alternatives which would achieve the stated purpose of this article in a less burdensome and less intrusive manner, (iii) an assessment of the effectiveness of this article, (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this article which are more stringent than federal requirements, and (v) the results of a review as to whether this article is clearly written and easily understandable by affected entities.

B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this article without amendment, (ii) repeal this article, or (iii) amend this article. If the board's decision is to repeal or amend this article, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

VA.R. Doc. No. R97-555; Filed June 4, 1997, 3:51 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-120-360 et seq. Part VI: Medallion II (amending 12 VAC 30-120-400).

Statutory Authority: § 32.1-325 of the Code of Virginia and 42 CFR 434.67.

Public Hearing Date: N/A – Public comments may be submitted until August 22, 1997.

(See Calendar of Events section for additional information)

Basis and Authority: Section 32.1-324 of the Code of Virginia grants to the Director of the Department of Medical Assistance Services (DMAS) the authority to administer and amend the Plan for Medical Assistance in lieu of board action pursuant to the board's requirements. The Code also provides, in the Administrative Process Act (APA) §§ 9-6.14:7.1 and 9-6.14:9.1, for this agency's promulgation of proposed regulations subject to the Governor's review.

Subsequent to an emergency adoption action, the agency is initiating the public notice and comment process as contained in Article 2 of the APA. The emergency regulation became effective on January 1, 1997. Section 9-6.14:4.1(C) of the Code of Virginia requires the agency to publish the Notice of Intended Regulatory Action within 60 days of the effective date of the emergency regulation if it intends to promulgate a permanent replacement regulation. The Notice of Intended Regulatory Action for this regulation was published in the Virginia Register on February 17, 1997. A second notice was published on April 28, 1997.

Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring

HMOs for violations specified in the federal regulations. One of the types of violations for which states must monitor is violation of the physician incentive plan provisions. Federal regulations at 42 CFR 434.70 state that federal matching funds may be withheld if either the state Medicaid agency or the HMOs under contract to that agency do not comply with the physician incentive plan requirements.

Purpose: The federal regulations, and the requirements for state agencies to monitor for violations of these regulations, are intended to protect the recipients covered under HMOs from constraints in accessing needed services because of any incentives physicians may receive for restricting access or limiting referrals. This provides a clear advantage to the recipients and provides DMAS with one mechanism for ensuring adequate and appropriate provision of services. This mechanism is essential to protect the health, safety and welfare of the recipients.

Summary and Analysis: The section of the State Plan affected by this action is Attachment 2.1 B: HMO Quality Control and Utilization Review (12 VAC 30-120-400).

Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring HMOs for violations specified in the federal regulations. At the time DMAS began developing its regulations for the Medallion II program, the federal regulations specified monitoring for violations of four provisions. Monitoring plans for these four provisions were included in the Medallion II proposed regulations and were made permanent in the final regulations.

However, an additional provision has recently been added to the federal regulations, for which monitoring is required. HCFA published, in the March 27, 1996, issue of the Federal Register (61 FR 13430) a rule implementing federal requirements concerning sanctions against HMOs and physician incentive plans as defined in the Omnibus Budget Reconciliation Act of 1990 (OBRA '90). This new rule adds to 42 CFR 434.67 the requirement to monitor for violations of the physician incentive plan provisions. A subsequent notice postponed the original effective date of May 28, 1996, stating that new effective dates and clarifying language would be published at a later date. In the September 3, 1996, issue of the Federal Register (61 FR 46384), HCFA published the clarifications and new effective dates. States were required to begin implementing the new rule, including monitoring for compliance, January 1, 1997.

To meet the effective date required, DMAS promulgated emergency regulations that were effective January 1, 1997. The monitoring plan included in the emergency regulations was drawn directly from the federal requirements for physician incentive plans. The new federal regulations set out specific reporting requirements with which the HMOs must comply (42 CFR 417.479(h)(1) and 42 CFR 434.70). These reporting requirements include such provisions as disclosing the type of incentive plan; the amount and type of stop-loss protection provided to the physicians; and the capitation payments paid to physicians by percentage for

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primary care services, referral services to specialists, and hospital and other types of provider services. DMAS will review the reports submitted by the HMOs to monitor the HMOs' compliance. Additional components may be included in the monitoring plan as the regulations are published and public comment is received.

Physicians in prepaid health care organizations generally receive fee-for-service payments, salary, or capitation payments (a set dollar amount per patient) for the services they furnish. Financial incentives may be used with the various types of physician payments to encourage appropriate levels of referral services. Referral services are any specialty, inpatient, outpatient, or laboratory services that a physician arranges for but does not provide directly. Prepaid health care organizations may hold physicians or physician groups at risk for all or a portion of the cost of referral services so that they have a financial incentive to arrange for the furnishing of only medically necessary services. If the physician or physician group successfully controls the levels of referral services, the physician or group may receive additional compensation (an incentive payment) from the prepaid health care organization. The incentive payment may take the form of unused capitation, a returned withhold, or a bonus payment.

If the physician or physician group has excessive referrals (as defined by the prepaid health care organization), it may not receive any incentive funds. In addition, the prepaid health care organization may hold the physician or physician group liable for referral costs that exceed a specified threshold. The prepaid health care organization may also increase the physician's or physician group's withhold or make other changes in its incentive arrangements.

Issues: The federal regulations, and the requirements for state agencies to monitor for violations of these regulations, are intended to protect the recipients covered under HMOs from constraints in accessing needed services because of any incentives physicians may receive for restricting access or limiting referrals. This provides a clear advantage to the recipients and provides DMAS with a mechanism for ensuring adequate and appropriate provision of services. While the federal regulations impose additional reporting requirements on the HMOs, DMAS has determined that reporting requirements beyond the scope of the federal requirements are not necessary. DMAS believes this is the least intrusive option for implementing the federal requirements.

The agency projects no negative issues involved in implementing this proposed change.

Fiscal/Budget Impact: HMOs under contract to DMAS for coverage of Medicaid clients will be affected by this change if they choose to offer incentive plans to their physicians that base compensation on the use or cost of services furnished. The increase in reporting requirements, according to federal estimates incorporated in that rule-making process, are not expected to affect many HMOs.

Under federal regulations and under the terms of the Medicaid contract, DMAS must monitor for compliance.

DMAS will include monitoring for these provisions as part of its quality and contract monitoring activities.

This change will not affect recipients. This change will not have an impact on the existing budget. There are no localities which are uniquely affected by these regulations as they apply statewide.

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. Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring HMOs for violations specified in the federal regulations. At the time DMAS began developing its regulations for the Medallion II program, the federal regulations specified monitoring for violations of four provisions. Monitoring plans for these four regulations were included in the Medallion II proposed regulations and were made permanent in the final regulations.

However, an additional provision has recently been added to the federal regulations, for which monitoring is required. HCFA published, in the March 27, 1996, issue of the Federal Register (61 FR 13430) a rule implementing federal requirements concerning sanctions against HMOs and physician incentive plans as defined in the Omnibus Budget Reconciliation Act of 1990 (OBRA '90). This new rule adds to 42 CFR 434.67 the requirement to monitor for violations of the physician incentive plan provisions. This regulation simply conforms to the federal regulations already promulgated.

Estimated economic impact. The federal regulations, and the requirements for the state agencies to monitor for violations of these regulations, are intended to protect the recipients covered under HMOs from constraints in accessing needed services because of any incentives physicians may receive for restricting access or limiting referrals.

Physicians in prepaid health care organizations receive remuneration in the form of salaries, fee-for-service or capitation (a set dollar amount per patient). For services that the physician cannot provide directly, they can arrange for patients to have these services through a referral service. An HMO can use financial incentives to encourage or discourage referrals. For example, for successfully controlling the level of referrals, a physician or physician group may receive

additional compensation in the form of unused capitation, a returned withhold, or a bonus payment. On the other hand, if a physician or physician group has excessive referrals (as defined by the HMO), it may not receive any incentive funds. Further more, the HMO could hold physicians liable for any referral costs up and above a specified amount. This regulation as proposed is designed to monitor the contracts that HMOs offer to their physicians to prevent the inclusion of such perverse incentives in the contracts.

DMAS indicates that though it has not been monitoring these contracts for financial incentives, there has been no indication that any of the participating HMOs have been in violation of this regulation. The monitoring of contracts is thus designed to ensure continued compliance on the part of the HMOs. Clearly, the group that benefits the most from such monitoring will be Medicaid patients who can be assured that there will be no constraints in accessing medically needed services because of any incentives physicians may receive for restricting access or limiting referrals. This benefit does not represent an improvement but an assurance of non-deterioration in medical services currently provided by the HMOs. In any case, Medicaid clients' ability to change HMOs should provide an additional incentive for providers to maintain at least the minimal required level of care.

The costs of this regulation will be incurred primarily in the cost of monitoring itself. Monitoring can be done in one of two ways: firms self-report (bearing in mind that there are penalties for false reporting) contracts they have offered to their physicians or have DMAS perform on-site contract monitoring as part of its yearly evaluation of HMOs. Either way, the monitoring itself imposes very little cost on either the firms or on taxpayers.

HMOs that participate in Medicaid do provide such reports to DMAS and should therefore not incur any additional cost as a result of this regulation. For those that have to do the reporting for the first time, the cost of providing the report is minimal. Only if DMAS decides to conduct on site monitoring of contracts will there be additional costs. Sources at DMAS indicate that the total cost per year should be somewhere between \$5,000 and \$10,000. We conclude that there will be a net cost to this regulation coming directly from the cost of monitoring HMO contracts to physicians or physician groups. However, this cost is so small it will most likely be offset by the increased assurance that medically needed procedures will be available to recipients.

Businesses and entities affected. The businesses that will be affected are the HMOs currently participating in the Medallion II program. This regulation should affect Medicaid patients, since it is designed to ensure that they are not constrained in accessing needed services because of any incentives physicians may receive for restricting access or limiting referrals.

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.

Effects on the use and value of private property. Any possible effect on the value of the affected firms will be too small to measure.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning HMO Monitoring.

Summary:

Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring HMOs for violations specified in the federal regulations. An additional requirement concerning sanctions against HMO's and physician incentive plans as defined in the Omnibus Budget Reconciliation Act of 1990 was recently added. The proposed amendment to the Medallion II Regulations adds the requirement to monitor for violations of the physician incentive plan provisions.

12 VAC 30-120-400. Quality Control and Utilization Review.

A. DMAS shall rigorously monitor the quality of care provided by the HMOs. DMAS may contract with one or more external quality review organizations to perform focused studies on the quality of care provided by the HMOs. Specifically, DMAS shall monitor to determine if the HMO:

1. Fails substantially to provide the medically necessary items and services required under law or under the contract to be provided to an enrolled recipient and the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual. This shall be monitored through the review of encounter data on a routine basis and other methods determined by DMAS.
2. Imposes on clients premium amounts in excess of premiums permitted. This shall be monitored through surveying a sample of clients at least annually and other methods determined by DMAS.
3. Engages in any practice that discriminates among individuals on the basis of their health status or requirements for health care services, including expulsion or refusal to reenroll an individual, or any practice that could reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by § 1903(m) of the Social Security Act (42 USC § 1396b(m))) by eligible individuals whose medical conditions or histories indicate a need for substantial future medical services. This shall be monitored through surveying a sample of clients at least annually and other methods determined by DMAS.

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4. Misrepresents or falsifies information that it furnishes, under § 1903(m) of the Social Security Act (42 USC § 1396b(m)) to HCFA, DMAS, an individual, or any other entity. This shall be monitored through surveying a sample of clients at least annually and other methods determined by DMAS.

5. Fails to comply with the requirements of 42 CFR 417.479(d) through (g) relating to physician incentive plans, or fails to submit to DMAS its physician incentive plans as required or requested in 42 CFR 434.70. This provision shall be monitored through review of the information listed in 42 CFR 417.479(h)(1) as submitted by the HMOs in accordance with the requirements of 42 CFR 434.70.

B. DMAS shall ensure that data on performance and patient results is collected. Specifically, DMAS shall review, which may include on-site reviews, encounter data submitted by the HMOs as defined in the contracts. This review shall include, but not be limited to:

1. Whether services were properly authorized or excluded,
2. The adequacy and appropriateness of services provided or denied, and
3. Analysis of possible trends in increases or reductions of services.

C. DMAS shall ensure that quality outcomes information is provided to HMOs. DMAS shall ensure that changes which are determined to be needed as a result of quality control or utilization review are made.

VA.R. Doc. No. R97-561; Filed June 4, 1997, 9:05 a.m.

DEPARTMENT OF MOTOR VEHICLES

REGISTRAR'S NOTICE: Pursuant to § 58.1-2421 of the Code of Virginia, the Virginia Motor Vehicle Rental Tax Rules and Regulations are not subject to the Administrative Process Act (§ 9-6.14:1 et seq.).

Title of Regulation: 24 VAC 20-100-10 et seq. Virginia Motor Vehicle Rental Tax Rules and Regulations (amending 24 VAC 20-100-10, 24 VAC 20-100-30, 24 VAC 20-100-60, 24 VAC 20-100-70, 24 VAC 20-100-80, 24 VAC 20-100-100, 24 VAC 20-100-130, 24 VAC 20-100-140, 24 VAC 20-100-160, 24 VAC 20-100-190, 24 VAC 20-100-200, 24 VAC 20-100-210, 24 VAC 20-100-220, 24 VAC 20-100-290, 24 VAC 20-100-330, 24 VAC 20-100-340, 24 VAC 20-100-360, 24 VAC 20-100-370, 24 VAC 20-100-380, 24 VAC 20-100-390, 24 VAC 20-100-420, 24 VAC 20-100-430, 24 VAC 20-100-460, 24 VAC 20-100-500, 24 VAC 20-100-520 and 24 VAC 20-100-540; repealing 24 VAC 20-100-40 and 24 VAC 20-100-230 through 24 VAC 20-100-280).

Statutory Authority: § 58.1-2421 of the Code of Virginia.

Summary:

The proposed amendments update the Virginia Motor Vehicle Rental Tax Rules and Regulations by incorporating statutory changes which, for the most part, were made in the 1997 session of the General Assembly. This regulation primarily affects those businesses that rent motor vehicles. Key changes include: (i) the increase of the additional rental tax from 2½% to 4.0%; (ii) the extension of the additional rental tax to certain vehicles in lieu of tangible personal property taxes; and (iii) the exclusion of motor vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more from the motor vehicle rental tax.

24 VAC 20-100-10. Definitions.

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

"Commissioner" means the Commissioner of the Department of Motor Vehicles.

"Commonwealth" means the Commonwealth of Virginia.

"Daily rental passenger-car vehicle" means a motor vehicle, other than a motorcycle or a mobile home as defined in § 46.2-100 of the Code of Virginia, used for the transportation of persons or property whether on its own structure or by drawing another vehicle or vehicles, having a gross vehicle weight of 9,000 pounds or less and held for rental as defined in this chapter and rented for a period of less than 12 months.

"Department" means the Department of Motor Vehicles.

"Gross proceeds" means the total amount of the charges made or voluntary contributions received for the rental of a motor vehicle in this state. Gross proceeds includes charges for any services that are part of the rental contract, for collision coverage or waiver of property damage, public liability, or other forms of potential liability for the customer. However, gross proceeds does not include:

1. Cash discounts allowed and actually taken on a rental contract;
2. Finance charges, carrying charges, service charges, or interest from credit given on a rental contract;
3. Charges for motor fuels and special fuels other than motor fuel which are subject to taxes imposed by Chapter 21 (§ 58.1-2100 et seq.) of Title 58.1 of the Code of Virginia; and
4. Charges for optional accidental death insurance.

"Mobile home" means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when

connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Mobile office" means an industrialized building unit not subject to federal regulation, which may be constructed on a chassis for the purpose of towing to the point of use and designed to be used with or without a permanent foundation, for commercial use and not for residential use; or two or more such units separately towable, but designed to be joined together at the point of use to form a single commercial structure, and which may be designed for removal to and installation or erection on other sites.

"Motor vehicle" means every vehicle, except a mobile office, which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle, including mobile homes, and every device in, upon, and by which any person or property is, or can be, transported or drawn upon a highway, except devices moved only by human or animal power or, devices used exclusively upon stationary rails or tracks and vehicles, other than mobile homes, used in this Commonwealth but not required to be licensed by the Commonwealth.

"Out-of-state rentor" means a rentor whose principal place of business is outside the Commonwealth but who has one or more places of business within the Commonwealth from which deliveries of rental motor vehicles are made to persons in Virginia.

"Person" means every natural person, firm, partnership, association, or corporation.

"Rental in this state (or Commonwealth)" means any rental in which a person receives delivery of a motor vehicle within the Commonwealth which is delivered to a person in Virginia (including all land or interest in land within the Commonwealth which may be owned by or conveyed to the United States of America or the Commonwealth). If the rental vehicle is delivered to the rental customer in Virginia, it is a "rental in this state" regardless of where the contract is made, where the rental terminates, or where the vehicle is surrendered. The term applies regardless of where the rental agreement is written, where the rental terminates, or where the vehicle is surrendered. Conversely, if delivery is not made in Virginia, there is no "rental in this state" even if the contract is made, the rental terminates, or the vehicle is surrendered in Virginia.

"Renting" or "rental" means the renting, for consideration, without the transfer of ownership, of a motor vehicle for a period of less than 12 months, whether or not the motor vehicle is required to be licensed by the Commonwealth and the possession or use of the motor vehicle by a person for a consideration, without transfer of the ownership of such motor vehicle, for a period of less than 12 months. A motor vehicle which is rented for a period of 12 months or longer is not a rental vehicle, but is considered a leased vehicle; therefore, it is not subject to the provisions of this chapter.

"Rentor" means any person engaged in the business of renting motor vehicles in this state for consideration, whether or not such motor vehicles are required to be licensed in the Commonwealth.

24 VAC 20-100-30. Application to the commissioner; form of application.

A. Applications for certificate of registration must be filed with:

Commissioner, Department of Motor Vehicles
Licensing Section
P.O. Box 27422
Richmond, Virginia 23261-7422

~~24 VAC 20-100-40. Form of application.~~

B. Applications must be on forms prescribed by the department; a separate application must be submitted for each place of rental business in this state Commonwealth.

24 VAC 20-100-60. Issuance of certificate of registration.

As soon as practicable after receipt of a rentor's application for certificate of registration, the department, upon examination and approval of the application, will issue to the rentor an official certificate or certificates of registration for the specific place of business or places of business for which the application was filed. The certificate of registration is not reassignable, and it is valid only for the rentor in whose name it is issued and for the transaction of business at the place designated on it. The certificate of registration must be conspicuously displayed at all times at the place for which it was issued.

24 VAC 20-100-70. Change of business location.

If the holder of a certificate of registration desires to change his place of business to another place of business within the state, he is required to inform the department in writing and to return the certificate of registration so that a revised certificate of registration may be issued to him. There is no charge for issuing a new certificate.

24 VAC 20-100-80. Cessation of business.

If the holder of a certificate of registration ceases to conduct his rental business at the place specified in his certificate, or if he sells such place of business, his certificate for that place of business expires upon his cessation of business at that location. The holder of such a certificate is required to inform the department, at the address given in this chapter, in writing, within 30 days of his cessation of business at such place. The certificate of registration must be returned to the department with this notice. (See 24 VAC 20-100-520 and 24 VAC 20-100-530.)

24 VAC 20-100-100. Change in business structure treated as change in ownership.

The following changes in the structure of the entity operating a rental business are considered changes in ownership, so that the new operating entity, as a new owner, must apply for a new certificate of registration while the old

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entity must surrender its old certificate to the department. The changes are:

1. Change of a partnership or sole proprietorship into a corporation;
2. Change of a corporation into a partnership or sole proprietorship;
3. Change of a partnership into a sole proprietorship;
4. Change of a sole proprietorship into a partnership; and
5. Change from one partnership to another partnership where none of the partners remain the same.

24 VAC 20-100-130. Cancellation of rentor's certificate of registration without a hearing.

The commissioner shall cancel any rentor's certificate of registration for:

1. Failure to file a timely motor vehicle rental tax return, provided a reminder of such failure has been mailed to the rentor 10 days prior to cancellation;
2. Failure to remit with any return the taxes payable as stated on the return; or
3. Failure to satisfy an assessment by the commissioner or to institute an appeal of such assessment to the circuit court of the City of Richmond within 15 days of such assessment.

24 VAC 20-100-140. Engaging in business as a rentor without a certificate of registration.

The Motor Vehicle Sales and Use Tax Act, ~~§ 58.1-2420~~ Chapter 24 (§ 58.1-2400 et seq.) of Title 58.1 of the Code of Virginia, provides that any person who engages in business as a rentor in this state without obtaining a certificate of registration or while such certificate of registration is suspended or revoked, including each officer of any corporation which so engages in business, shall be guilty of a Class 1 misdemeanor. Each day's continuance in business without a valid certificate of registration constitutes a separate offense.

24 VAC 20-100-160. Transfer of a motor vehicle from rental status.

If a rentor desires to transfer a motor vehicle registered in Virginia from its rental status, the registration of the motor vehicle must be transferred with the department. The applicable fee will be charged for transfer of the registration. At the time a motor vehicle registration is transferred from rental status, the 3.0% Motor Vehicle Sales and Use Tax will be collected, unless such tax was paid when the vehicle was first registered. No credit against the Motor Vehicle Sales and Use Tax will be allowed for the taxes previously paid tax on the gross proceeds from the rental of that vehicle.

24 VAC 20-100-190. Motor vehicle rental tax taxes.

~~A 4.0% rental tax is levied on the gross proceeds from the rental of all motor vehicles in Virginia. Taxes are levied on~~

the gross proceeds from the rental of motor vehicles in Virginia. The taxes are comprised of a 4.0% rental tax and a 4.0% additional rental tax.

The 4.0% rental tax is a state tax and is levied on the gross proceeds from the rental in Virginia of all motor vehicles (refer to definition) with a gross vehicle weight rating or a gross combination weight rating of 26,000 pounds or less.

The 4.0% additional rental tax is levied on the gross proceeds from the rental in Virginia of any daily rental vehicle (refer to definition). The 4.0% additional tax is distributed by the department to the city, town, or county wherein the daily rental vehicle was delivered to the rental customer. No county, city, or town shall impose any tangible personal property tax, license tax, license fee or the requirement of a license tag, sticker or decal upon any daily rental vehicle which is subject to the 4.0% additional rental tax. The 4.0% additional rental tax is in addition to, and not in lieu of, the 4.0% rental tax.

The following table is provided to clarify the tax structure by listing certain types of vehicles and the taxes which apply.

TYPE OF VEHICLE	APPLICABLE TAX
<i>Motor vehicles with a gross vehicle weight rating or gross combination weight rating of 26,000 pounds or less.</i>	<i>4.0% rental tax and 4.0% additional rental tax.</i>
<i>Motor vehicles with a gross vehicle weight rating or gross combination weight rating of 26,001 pounds or more.</i>	<i>4.0% additional rental tax.</i>
<i>Mobile homes.</i>	<i>4.0% rental tax.</i>
<i>Mobile offices.</i>	<i>No tax.</i>
<i>Motorcycles.</i>	<i>4.0% rental tax.</i>

24 VAC 20-100-200. Collection by the rentor from his customer.

All rentors, including out-of-state rentors and occasional rentors, must collect ~~a tax of 4.0% of~~ the 4.0% rental tax and the 4.0% additional rental tax on the gross proceeds from ~~each motor vehicle~~ the rental in this state of motor vehicles in accordance with 24 VAC 20-100-190. ~~The tax 4.0% rental tax and the 4.0% additional rental tax~~ must be collected from the rental customer, and it must be separately stated as a tax and added to the rental price on the rental contract. The tax is a debt from the rental customer to the rentor until paid, and it is recoverable in an action at law in the same manner as other debts. It is unlawful for any rentor to advertise or to hold out to the public, directly, indirectly, or in any manner whatsoever, that the rentor will absorb any part of the rental tax or in any way relieve the rental customer of the obligation to pay such tax.

24 VAC 20-100-210. Transactions exempt from the rental tax and additional rental tax.

The following transactions are exempt from the 4.0% motor vehicle rental tax and the 4.0% additional rental tax in Virginia:

1. Rentals to the government of the United States or any governmental agency thereof, or to the Commonwealth or any political subdivision thereof, or to any volunteer fire department or rescue squad not operated for a profit;
2. Rentals to accredited consular or diplomatic officers of foreign governments, whether for official or personal use by such officers, provided such officers are nationals of the country by which they are appointed and are not citizens of the United States;
3. Rentals to employees of any governmental agency of the United States or of the Commonwealth while such employees are traveling under formal orders, which orders or similar documentation must be presented to the renter in order for the rental transaction to qualify for this exemption;
4. Rentals to any person for the purpose of rental as an established business, as part of an established business, or incidental or germane to an established business. The person who will be renting the vehicle must have a rental certificate of registration in order for a transaction to qualify for this exemption; and
5. Rentals to private nonprofit institutions of learning for the sole purpose of use in driver education instruction which is a part of such institution's curriculum for full-time students;
6. Rentals of self-contained mobile computerized axial tomography scanners to a nonprofit hospital or a cooperative hospital service organization; and
7. Rentals of self-contained mobile units designed exclusively for human diagnostic or therapeutic service to a nonprofit hospital or a cooperative hospital service organization established for research in, diagnosis of, or therapy for human ailments.

24 VAC 20-100-220. Nonexempt transactions.

The following transactions are not exempt from the 4.0% motor vehicle rental tax on motor vehicles or the 4.0% additional rental tax. (This list is not all inclusive. Only rentals specifically listed in 24 VAC 20-100-210 are exempt; however, in the interest of clarity, the following transactions which might be thought to be exempt, but which are not, are listed for your information):

1. Rentals to churches, nonprofit schools and colleges and other nonprofit or charitable organizations;
2. Rentals to government employees for their private use and not for official business;

3. Rentals in which delivery of the vehicle is made on federal or state controlled property, so long as such property is within the Commonwealth;

4. Rentals by out-of-state renters where delivery of the motor vehicle is made in Virginia; and

5. Rentals in which the motor vehicle delivered is not required to be registered in Virginia, so long as delivery of the vehicle is made in Virginia.

24 VAC 20-100-230. ~~Additional 2½% rental tax on daily rental passenger cars. (Repealed.)~~

~~Effective July 1, 1985, an additional 2½% tax is levied on the gross proceeds from the rental in this state of any daily rental passenger car.~~

24 VAC 20-100-240. ~~The 2½% rental tax is additional. (Repealed.)~~

~~The additional 2½% rental tax on daily rental passenger cars is in addition to, and not in lieu of, the 4.0% rental tax on all motor vehicles.~~

24 VAC 20-100-250. ~~Application of the 2½% additional rental tax. (Repealed.)~~

~~The 2½% additional rental tax is applied in exactly the same manner as the 4.0% rental tax on all motor vehicles, except that it applies only to those motor vehicles which are classified as daily rental passenger cars. With that single exception, all definitions, explanations, methods of computation and collection, and all exemptions which apply to the 4.0% rental tax on all motor vehicles rented in this state also apply to the 2½% additional tax on daily rental passenger cars rented in this state.~~

24 VAC 20-100-260. ~~Purpose of the 2½% additional rental tax. (Repealed.)~~

~~The 2½% additional rental tax is earmarked for distribution to the city, town, or county wherein the rental car was delivered to the rental customer. Effective July 1, 1985, no county, city or town shall impose any license tax or license fee upon any daily rental passenger car which is subject to the 2½% additional rental tax.~~

24 VAC 20-100-270. ~~Credit against the additional rental tax for tangible personal property tax paid. (Repealed.)~~

~~Because some Virginia localities already impose a tangible personal property tax on daily rental passenger cars, renters are permitted to claim any such tangible personal property tax actually paid on a rental car to a Virginia locality as a credit against the additional rental tax on that car. No such credit is allowed against the 4.0% rental tax on all motor vehicles, however.~~

24 VAC 20-100-280. ~~Procedures for crediting tangible personal property tax paid. (Repealed.)~~

~~Full credit for all tangible personal property taxes paid on a daily rental passenger car to a Virginia locality is allowed against the additional rental tax on that car, provided that:~~

Proposed Regulations

~~1. Only those tangible personal property taxes assessed for a tax year ending after June 30, 1981, are creditable, and then only that proportion of such taxes as are attributable to the portion of the tax year after June 30, 1981, are creditable;~~

~~2. The credit may be carried over from month to month for a period of up to six months or until earlier used against the additional tax due. No credit may be carried over more than six months from the time of payment of the tangible personal property taxes. Any credit not used within six months is lost;~~

~~3. The credit is allowed only for tangible personal property taxes actually paid. Credit claimed on such taxes which have been assessed but not actually paid when due is subject to collection as an underpayment of the additional rental tax and to penalties and interest as provided in § 58.1-2411 of the Code of Virginia;~~

~~4. The credit is allowed only against the additional rental tax on daily rental passenger cars; it cannot be taken against the 4.0% rental tax on all motor vehicles; and~~

~~5. The credit is claimed at the time the renter pays the additional tax to the department. It has no effect upon the rental customer's obligation to pay such additional tax to the renter, or upon the renter's obligation to collect it from his customers.~~

24 VAC 20-100-290. Record keeping, rental tax returns, and payment of rental taxes and fees.

Every renter, on or before the 20th day of each month, is required to forward a copy *return* to the commissioner, upon forms prescribed and furnished by the department, showing the gross proceeds from taxable rentals of all motor vehicles *with a gross vehicle weight rating or gross combination weight rating of 26,000 pounds or less* and of all daily rental ~~passenger cars~~ *vehicles* during the preceding calendar month. The renter is required to include all pertinent information requested on the monthly tax return. Payment of the amount of tax due must accompany the return. Adequate and complete records, as necessary to complete the tax returns and to determine tax liability, must be maintained by every renter.

24 VAC 20-100-330. Other security in lieu of surety bond; assignment required with other security.

Any renter may deposit *one or both* of the following securities with the commissioner in lieu of a surety bond:

1. Negotiable bonds which are direct obligations of the United States government or of the Commonwealth; and
2. A certificate of deposit in any banking institution approved by the commissioner. Certificates of deposit drawn on banks or savings and loan associations within the Commonwealth have been approved by the commissioner.

The amount of security to be required shall be determined in accordance with ~~24 VAC 20-100-320~~ *24 VAC 20-100-310*.

Any renter who deposits other security with the commissioner in lieu of a surety bond, shall deliver with the security an assignment authorizing the commissioner to use or receive payment of the security, or any part thereof, for the purpose of paying any liability of the renter to the state for rental taxes due and payable to the commissioner, including penalties and interest accrued thereon, and any damages for which the renter may be liable by reason of his failure to comply with the provisions of the Virginia Motor Vehicle Sales and Use Tax Act.

24 VAC 20-100-340. When new or additional bond or security required; cancellation of certificate of registration.

In the event that liability upon the surety bond or other security filed by a renter with the commissioner shall be discharged or reduced, whether by judgment rendered, payment made, or otherwise, or if it is the opinion of the commissioner that any surety on the bond has become unsatisfactory or unacceptable, the commissioner may require the filing of a new bond with like surety and in the same amount, or, in lieu thereof, other security, as provided in ~~24 VAC 20-100-310~~ *24 VAC 20-100-330*. The commissioner shall forthwith cancel any renter's certificate of registration for failure to comply with this requirement.

24 VAC 20-100-360. Release of surety and requirement of new bond; cancellation of certificate of registration.

The surety on a bond filed by any renter will be released and discharged from any *and all* liability accruing on the bond to the Commonwealth after the expiration of 60 days from the date upon which the surety company has filed a written request with the commissioner to be released and discharged. No such request will operate to relieve, release, or discharge ~~from the~~ *surety from* any liability already accrued or which shall accrue before the expiration of the 60-day period.

Upon receipt of such notice from a surety company, the commissioner will:

1. Notify the renter who furnished the bond of the request for release of the surety; and
2. Request the renter to file a new bond or other security with the commissioner on or before the expiration of 60 days from the date the surety filed a request with the commissioner.

Failure of any renter to file a new bond or other security as requested will result in the cancellation of the certificate of registration of such renter.

If a new bond or other security is furnished by the renter, the commissioner will cancel and surrender the bond of the renter for which such new bond or other securities were substituted.

24 VAC 20-100-370. Maintenance and preservation of rental records.

Every rentor is required to maintain and preserve adequate and complete records as are necessary to complete the rental tax returns and to determine the amount of tax for which he is liable. Such records must be retained for a period of four years. Such records include, but are not limited to, the following:

1. A daily record of all cash and credit rentals by place of business, including rentals under any type of financing or installment plan in use, with indications of which rentals involved daily rental passenger cars vehicles;
2. A copy of all rental contracts for each vehicle held for rental; and
3. A record of all documentation for any exemptions or adjustments claimed against the rental taxes.

Records are required to be open for inspection and examination at all reasonable hours of the business day by the commissioner or his duly authorized agents. The commissioner has all powers under this Act with respect to the records of such persons as are granted the Tax Commissioner under § 58.1-633 of the Code of Virginia.

If an assessment has been made and an appeal to the commissioner or to the court is pending, all books, records, and reproductions specified above relating to the period covered by the assessment must be preserved until the final disposition of the appeal.

24 VAC 20-100-380. Filing returns for rental taxes.

Returns must be filed monthly, within 20 days of the end of the month for which the return is filed. Rentors having more than one place of business in Virginia may file a consolidated return for all such places of business; however, the return must state the place of business from which all gross proceeds from the rental of daily rental passenger cars vehicles are derived. Rentors who regularly keep books and accounts on the basis of an annual period, which varies between 52 and 53 weeks, may report gross proceeds and taxes in a manner consistent with such accounting period, provided a satisfactory explanation is attached to the first return filed under such accounting period or to the rentor's application for a certificate of registration.

24 VAC 20-100-390. Computation of rental taxes.

The taxes to be paid are computed as a flat 4.0% of the total gross proceeds from the rental in Virginia of all motor vehicles in Virginia with a gross vehicle weight rating or gross combination weight rating of 26,000 pounds or less, plus a flat ~~2 1/2%~~ 4.0% of the total gross proceeds from the rental of all daily rental passenger cars vehicles in Virginia. The only adjustments permitted in the computation are as follows:

1. Proceeds from transactions which are exempt from the rental taxes may be deducted from the gross proceeds on which the taxes are computed; and

2. Bad debt accounts on rental transactions, if such accounts have been charged off as worthless for federal income tax purposes, may be deducted from the gross proceeds on which the taxes are computed. However, any recovery of payment for bad debts previously charged off must be included as gross proceeds in the month for which payment is received; and.

3. ~~A credit may be claimed against the additional rental tax on a daily rental passenger car, not including the 4.0% rental tax on all motor vehicles, for any tangible personal property tax paid to a Virginia locality on that car. (See 24 VAC 20-100-230 for particulars as to the application of this credit.)~~

24 VAC 20-100-420. Interest and penalties.

Interest of 1 1/2% per month or fraction of a month will be added to any rental taxes not paid when due and to any penalties added to such taxes, until such overdue taxes and penalties have been paid in full. Penalties may be imposed in the following situations:

- ~~1. Rentors who overcollect rental taxes and fail to account for and pay over such overcollections to the department in a timely filed rental tax return are subject to a penalty of 25% of such overcollection, in addition to being required to pay the overcharge;~~

2. 1. Rentors who fail to make a return and pay the rental taxes when due are subject to a penalty of 10% or \$10, whichever is greater, of the taxes due. Returns filed late with no rental taxes due will be subject to the minimum penalty of \$10; and

3. 2. Rentors who are found to have filed a false or fraudulent return, or to have wilfully willfully failed to file any return, with intent to defraud the state of any tax due under the Motor Vehicle Sales and Use Tax Act, are subject to a penalty of 50% of the amount of the proper tax due. It is prima facie evidence of intent to defraud the state for a rentor to understate by 50% or more the gross proceeds from rentals in this state.

24 VAC 20-100-430. Waiver of penalties for good cause shown.

The commissioner may, at his discretion, for good cause shown, waive the penalties described in subdivisions 1 and 2 of 24 VAC 20-100-420. The penalty described in subdivision 3 of 24 VAC 20-100-420 may not be waived.

24 VAC 20-100-460. Uncollected checks submitted for payment of taxes or fees.

If any check submitted to the department for the payment of taxes or fees is returned to the department unpaid because the bank on which the check is drawn finds insufficient funds in the account, no account in the name of the licensee, or that the account is closed, an additional fee of \$25, or 10% of the check, whichever is greater, will be imposed upon the person presenting such check to the department. This penalty applies to checks submitted for any

Proposed Regulations

fee or tax required or authorized to be collected by the department and is in addition to any other penalties imposed, except that where there is a specific penalty set forth by statute for the nonpayment or late payment of fees or taxes, this penalty applies only to the extent that it exceeds such specific penalty. The fees received by the commissioner under this section are used to defray the expenses incurred by the department in the collection of bad checks and are in addition to the regular appropriation made by the General Assembly.

Motor Vehicle Rental Tax Schedule of Additional Tax, TSCA 427 (Rev. 10/93) MCS-127 (Revised 6/97).

GUIDELINES

Virginia Motor Vehicle Rental Tax Questions and Answers, Guidelines for Rentors (Revised 7/97).

24 VAC 20-100-500. Termination of exemption.

When a motor vehicle is no longer used as a rental vehicle, if it is otherwise required to be registered in Virginia, it must be re-registered as a nonrental motor vehicle, and the 3.0% motor vehicle sales and use tax will be collected at the ~~that~~ time on the then current value of the vehicle. No credit against this 3.0% motor vehicle sales and use tax is allowed for any rental taxes paid with respect to such vehicle.

24 VAC 20-100-520. Obligation of a former rentor.

Any rentor who sells or terminates a rental business is required to do the following:

1. File final rental tax returns and pay any taxes due within ~~45~~ 30 days of selling or terminating the business;
2. Surrender his certificate of registration to the commissioner with his final return; and
3. File, with his final returns, a letter to the commissioner explaining the conditions of the sale or termination of the business and the names and addresses of any successors to the business.

24 VAC 20-100-540. Rental tax refunds.

If it appears, to the satisfaction of the commissioner, that all or a part of the 4.0% rental tax or the additional ~~2.4%~~ 4.0% rental tax, or both, have been erroneously or illegally collected from or charged to any person and the tax has been forwarded to the department, a refund will be paid to the rentor by the State Treasurer, after the rentor acknowledges that he will refund such taxes to the person who was overcharged. No refund will be made unless a written statement is filed with the commissioner setting forth the reason for the refund. The claim must be in a form prescribed by the commissioner and must be filed within three years of the date of the payment of the tax.

FORMS

Commonwealth of Virginia Rentor's Tax Bond, GSA-119 (Rev. 12/84) MCS-119 (Revised 10/6/95).

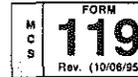
Motor Vehicle Rental Tax Return, TSCA-101 (Rev. 10/93) MCS-101 (Revised 6/97).

Application for Certificate of Registration to Collect the Virginia Motor Vehicle Rental Tax, TSCA-123 (Rev. Revised 10/93).

COMMONWEALTH OF VIRGINIA



RENTOR'S TAX BOND



SURETY COMPANY'S

DEPARTMENT OF MOTOR VEHICLES

BOND NUMBER

EFFECTIVE DATE

KNOW ALL MEN BY THESE PRESENTS, That _____ (Name of Rentor) of _____ (City or Town), County of _____, State of _____, whose principal place of business is located at _____, as PRINCIPAL, and _____ (Name of Surety) a corporation organized under the laws of _____, and duly authorized to engage in business in the Commonwealth of Virginia, with its principal office therein located at _____ in the City of _____, as SURETY, are held and firmly bound unto the Commonwealth of Virginia in the sum of _____ dollars (\$ _____) lawful money of the United States of America, to be paid to the said Commonwealth of Virginia, to which payment well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Signed, sealed, and delivered this _____ day of _____ A. D. 19 _____

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT:

WHEREAS, PRINCIPAL is engaged in business in the State of Virginia as a "Rentor" of motor vehicles as defined in Title 58, Chapter 24 of the Code of Virginia (1950), as amended, and is the holder of a valid certificate(s) of registration issued by the Commissioner of the Department of Motor Vehicles pursuant to section 58.1-2407 of the Code of Virginia; and WHEREAS, pursuant to section 58.1-2412 of the Code of Virginia, a bond executed by PRINCIPAL and a surety company licensed to do business under the laws of the Commonwealth of Virginia must be on file with the Commissioner of the Department of Motor Vehicles in order for PRINCIPAL to continue to hold a certificate(s) of registration; and WHEREAS, PRINCIPAL and SURETY have entered into this Bond for the purpose of satisfying PRINCIPAL'S obligations as required under section 58.1-2412 of the Code of Virginia; NOW THEREFORE, if PRINCIPAL shall promptly file true and timely reports of and shall promptly pay any and all rental and additional taxes, as those terms are defined in Title 58, Chapter 24 of the Code of Virginia, which are now or which may hereafter be levied or imposed, together with penalties and interest thereon, beginning with the effective date of this Bond and continuing until this Bond is lawfully terminated, then the above obligation shall be void, otherwise to remain in full force and effect.

IN WITNESS WHEREOF, This instrument has been duly executed by the above-named PRINCIPAL and SURETY the day and year above written. (Incorporated "Rentors" sign below)

Attest: _____ (Name of Rentor) By _____ (Secretary) _____ (President)

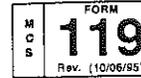
SEAL (Individual and Partnership "Rentors" sign below with witness(es)) _____ [Seal] _____ [Seal] _____ [Seal]

COUNTERSIGNED: (Not Required) ATTEST: By _____ (Virginia Representative) _____ (Name of Surety Company) [Seal] Address _____ BY _____ (Official or Attorney in Fact for Surety Co.) [Seal]

This Bond shall continue in force from year to year, unless terminated in accordance with the provisions of Title 58, Chapter 24 of the Code of Virginia, as amended. SURETY shall be released and discharged from any and all liability to the Commonwealth accruing under the terms of this Bond after the expiration of sixty (60) days from the date upon which SURETY shall have lodged with the Commissioner of the Department of Motor Vehicles written request to be released and discharged from this Bond. Such release and discharged shall not operate to relieve, release or discharge SURETY from any liability accrued under the Bond at the time of the written request or during the sixty-day period following the lodging of the written request.

Approved this _____ day of _____, 19 _____ DEPARTMENT OF MOTOR VEHICLES By _____ (Authorized Signature)

NOTE: INCORPORATED RENTORS AND SURETY MUST EXECUTE SEPARATE AFFIDAVITS ON SEVERAL FILE



ACKNOWLEDGMENT OF CORPORATE PRINCIPAL

STATE OF of to-wit:
I,, a notary public
in and for the aforesaid, in the State of, do certify that on the
..... day of, 19, before me personally came, in my
aforesaid
who, being by me duly sworn, did depose and say that he resides in
that he is the President of
the corporation described in and which executed the above instrument as PRINCIPAL; that he knows the seal of
said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of
the Board of Directors of the said corporation, and that he signed his name thereto by like order.
I further certify that my term of office expires on the day of, 19
Given under my hand this day of, 19
Notary Public

AFFIDAVIT AND ACKNOWLEDGMENT OF SURETY

STATE OF of to wit:
I,, a notary public in and for the
aforesaid, in the State aforesaid, do certify that
personally appeared before me in my aforesaid and made oath that he is
of the
that he is duly authorized to execute the foregoing bond by virtue of a certain power of attorney of said
company, dated
and recorded in the Clerk's office of the
in Deed Book No. page
that said power of attorney has not been revoked; that the said company has complied with all the requirements
of law regulating the admission of such companies to transact business in the State of Virginia; that the said
company holds a license of the State Corporation Commission authorizing it to do business in the State of
Virginia; that its surplus to policy holders is
\$: that the penalty of the foregoing bond is not in excess of ten per
centum of said sum; that the said company is not by said bond incurring in the aggregate, on behalf or on
account of the principal named in said bond, a liability for an amount larger than one-tenth of its surplus to
policyholders; that the said company is neither directly nor indirectly under the same ownership or management
as the principal in this bond; that the said company is solvent and
fully able to meet promptly all of its obligations, and the said
thereupon, in the name and on behalf of the said company, acknowledged the foregoing writing as its act and
deed.
My term of office expires 19
Given under my hand this day of, 19
Notary Public

Note - This blank must be properly filled out.
NOTE: Bond should be executed in Quadruplicate. Original to be filed with Department of Motor Vehicles, Duplicate and Triplicate for Surety
Company - Quadruplicate for Principal.

MCS-101 (Rev. 09/97)



Motor Vehicle Rental Tax Return

Department of Motor Vehicles
Motor Carrier Services/Tax & Revenue Services
P. O. Box 27122
Richmond, Virginia 23244-7422

- Please read the instructions on the reverse side before preparing this return.
- Attach MCS-127 Schedule of Additional Tax for multiple locations.

LICENSE NUMBER (USE PREVIOUS EDITION)		REPORT FOR MONTH AND YEAR OF	
NAME OF BUSINESS	FEDERAL ID. EMPLOYMENT USE	STATE	ZIP CODE
STREET ADDRESS	CITY	COUNTY	LOCALITY CODE
<input type="checkbox"/> COUNTY	<input type="checkbox"/> CITY	<input type="checkbox"/> TOWN OF	
ITEMS			
A		B	C
1. GROSS PROCEEDS ON MOTOR VEHICLE RENTALS FOR REPORTING PERIOD		4% RENTAL TAX	4% ADDITIONAL TAX
A. CREDIT FOR BAD DEBITS			
B. BAD DEBT RECOVERY			
C. ADJUSTED GROSS PROCEEDS (SUM OF LINE 1 AND 1B LESS 1A)			
2. EXEMPTIONS			
A. GOVERNMENT RENTALS			
B. RE-RENTALS			
C. TOTAL EXEMPTIONS (SUM OF LINE 2A AND 2B)			
3. NET TAXABLE PROCEEDS (LINE 1C LESS LINE 2C)			
4. TAX LIABILITY (RENTAL TAX - 4% OF LINE 3 COLUMN B, ADDITIONAL TAX - 4% OF LINE 3, COLUMN C)			
A. ADJUSTMENTS (DEBIT OR CREDIT)			
5. ADJUSTED TAX LIABILITY (SUM OR DIFFERENCE OF LINE 4 AND 4A)			
6. PENALTY ON LATE RETURNS - \$10.00 OR 10%, WHICHEVER IS GREATER			
7. SUBTOTAL (SUM OF LINES 5 AND 6)			
8. INTEREST - 1 1/2% PER MONTH ON TAX AND PENALTY (LINE 7)			
9. TOTAL LIABILITY (SUM OF LINES 7 AND 8)			
10. COMBINED TOTAL LIABILITY (SUM OF LINE 9, COLUMN B AND LINE 9, COLUMN C)			
<input type="checkbox"/> OUT OF BUSINESS - FINAL RETURN (COMPLY WITH SECTION 24VAC20-100-520 OF THE VIRGINIA MOTOR VEHICLE RENTAL TAX RULES AND REGULATIONS)			
SIGNATURE		DATE	DATE
TELEPHONE NUMBER		TELEPHONE NUMBER	DATE

NOTE: ANY CREDIT IN ONE COLUMN CANNOT REDUCE THE AMOUNT DUE IN ANOTHER COLUMN.

INSTRUCTIONS

- Gross Proceeds.** The gross proceeds during the reporting period from rentals of less than twelve (12) months are entered on Line 1. On Line 1, Column B (4% Rental Tax) enter the gross proceeds from the rental of any motor vehicle and/or trailer except mobile homes and motor vehicles or combination weight (12,001 lbs.) or gross weight (12,001 lbs.) trailers with a gross vehicle weight of 12,001 lbs. or more. On Line 1, Column C (4% Additional Tax) enter the gross proceeds from the rental of any motor vehicle and/or trailer except mobile offices, mobile homes, and motorcycles.
 - Credit for Bad Debts.** Enter on Line 1A, Column B the total amount of bad debts on rental transactions subject to the 4% Rental Tax which have been charged off as worthless for federal income tax purposes during this reporting period. Enter on Line 1A, Column C the total amount of bad debts on rental transactions subject to the 4% Additional Tax which have been charged off as worthless for federal income tax purposes during this reporting period.
 - Bad Debt Recovery.** Enter on Line 1B, Column B the amount of rental proceeds charged off on Line 1A, Column B of a previous return and subsequently collected by the renter during the current reporting period. Enter on Line 1B, Column C the amount of rental proceeds charged off on Line 1A, Column C of a previous return and subsequently collected by the renter during the current reporting period.
- Adjusted Gross Proceeds.** Enter on Line 1C the adjusted gross proceeds to be figured as follows:
 - Deduct Line 1A from Line 1.
 - Add Line 1B to the above.
- Exemptions.**
 - Government Rentals.** Enter on Line 2A the tax exempt portion of your gross proceeds derived from any of the following:
 - The Federal Government or any of its agencies
 - town, city, or county
 - Any volunteer fire department or rescue squad not operated for profit.
- Tax Liability (Rental Tax - 4% of Line 3 Column B, Additional Tax - 4% of Line 3, Column C)**
- Adjustments (Debit or Credit)**
- Adjusted Tax Liability (Sum or Difference of Line 4 and 4A)**
- Penalty on Late Returns - \$10.00 or 10%, whichever is greater**
- Subtotal (Sum of Lines 5 and 6)**
- Interest - 1 1/2% per month on tax and penalty (Line 7)**
- Total Liability (Sum of Lines 7 and 8)**
- Combined Total Liability (Sum of Line 9, Column B and Line 9, Column C)**

SUPPLEMENTAL INSTRUCTIONS

- Retain a copy of this return and schedules as an essential part of your tax records for four (4) years.
- Reporting Period.** Unless an extension of time, for good cause, is requested in writing, the return must be postmarked and payment of tax made on or before the twentieth (20th) day of the month following the reporting period.
- This form is required to be filed for each month, even if no rental transactions occurred during that particular month. A Schedule of Additional Tax (MCS-127) is used required to be filed with a zero return.
- For businesses located in two or more localities, a Schedule of Additional Tax (MCS-127) must be submitted with this form.
- If you have sold your company or are no longer in the rental business, please be sure to check the "Out of Business" box at the bottom of the front side of this form.



Social Security or Federal Identification Number

COMMONWEALTH OF VIRGINIA
Department of Motor Vehicles
Motor Vehicle Rental Tax
P. O. Box 27422
Richmond, Virginia 23261-7422

TSCA 123 (10/93)

DMV USE ONLY
Registration Number Issued

APPLICATION FOR CERTIFICATE OF REGISTRATION TO COLLECT THE VIRGINIA MOTOR VEHICLE RENTAL TAX

1. Name of Business
Location of Business
County City Town of Locality Code
(List additional locations on reverse side of application)

Name of Applicant
Mailing Address
(If different from above)

2. If rental tax collections will be reported to the Department of Motor Vehicles through your parent company, indicate the name and address of the parent company below:
Name
Mailing Address

3. If you are a registered motor vehicle dealer in Virginia, please indicate your Certificate Number

4. Check one: Sole Proprietorship Partnership Corporation
Unincorporated Association Other, specify

If this is a sole proprietorship give the name and address of the proprietor; if a partnership, give the names and addresses of all partners; if a corporation, give the names, titles and addresses of the principal officers; if an unincorporated association, give the name and address of the member authorized to sign in behalf of the association.

Table with 2 columns: Name, Address

(If this application is for a corporation, an officer of the corporation authorized to sign on behalf of the corporation must sign; if a partnership, one partner must sign; if an unincorporated association, a member must sign; if a sole proprietorship, the proprietor must sign.)

By: Authorized Signature

Area Code Title
Telephone Number Date

ADDITIONAL LOCATIONS

TSCA 123 (10/93)

Location of business
County City Town of Locality Code
Location of business
County City Town of Locality Code
Location of business
County City Town of Locality Code
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County City Town of Locality Code



Department of Motor Vehicles
Motor Carrier Services/Tax & Revenue Services
P. O. Box 27422
Richmond, Virginia 23261-7422

**Motor Vehicle Rental Tax
Schedule of Additional Tax**
SEE INSTRUCTIONS ON THE REVERSE SIDE

MCS-127 (Rev 09/7)

NAME OF BUSINESS		LICENSE NUMBER		REPORT FOR THE MONTH AND YEAR OF		
	FIRST LOCALITY	SECOND LOCALITY	THIRD LOCALITY	FOURTH LOCALITY	FIFTH LOCALITY	TOTALS
A. COUNTY, CITY, OR TOWN						
B. LOCALITY CODE						
1. GROSS PROCEEDS						
1A. CREDIT FOR BAD DEBTS						
1B. BAD DEBT RECOVERY						
1C. ADJUSTED GROSS PROCEEDS						
2. EXEMPTIONS						
2A. GOVERNMENT RENTALS						
2B. RE-RENTALS						
2C. TOTAL EXEMPTIONS						
3. NET TAXABLE PROCEEDS						
4. TAX LIABILITY						
4A. ADJUSTMENTS (DEBIT OR CREDIT)						
						5. ADJUSTED TAX LIABILITY →

Page _____ of _____

THIS SCHEDULE MUST BE SUBMITTED FOR EACH COUNTY, CITY, OR TOWN IN WHICH A RENTAL BUSINESS IS LOCATED.

INSTRUCTIONS

Use a separate column for each locality in which a rental business is located. Complete the form using the following instructions for each locality listed. Use additional pages if needed. The steps outlined below are followed for each page.

Line A: Enter the county, city, or town in which a rental business is located.

Line B: Enter the locality code. Refer to the list furnished by DMV of Virginia cities, counties, and towns with DMV codes.

1. **Gross Proceeds.** Enter the amount of gross proceeds derived from the rental of any motor vehicle and/or trailer except mobile offices, mobile homes, and motorcycles.
 - 1A. **Credit for Bad Debts.** Enter the amount of bad debts on rental transactions subject to the 4% Additional Tax which have been charged off as worthless for federal income tax purposes for the appropriate locality during this reporting period.
 - 1B. **Bad Debt Recovery.** Enter the amount of rental proceeds charged off on previous returns and subsequently collected during the current reporting period for the appropriate locality.
 - 1C. **Adjusted Gross Proceeds.** Deduct Line 1A from Line 1, then add Line 1B and enter the result on Line 1C.
 2. **Exemptions:**
 - 2A. **Government Rentals.** Enter the tax exempt portion of gross proceeds derived from any of the following for the appropriate locality:
 - The Federal Government or any of its agencies.
 - The State of Virginia or its political subdivisions (i.e., any town, city, or county).
 - Any volunteer fire department or rescue squad not operated for profit.
 - 2B. **Re-Rentals.** Enter the portion of gross proceeds derived from rentals to another licensed renter for the purpose of re-rental for the appropriate locality.
 - 2C. **Total Exemptions.** Add Line 2A and Line 2B. Enter the result on Line 2C.
 3. **Net Taxable Proceeds.** Subtract Line 2C from Line 1C. Enter the result on Line 3.
 4. **Tax Liability.** Multiply the amount on Line 3 by 4% (.04). Enter the result on Line 4.
 - 4A. **Adjustments.** Enter any credit which is due (-) or any additional tax which is due (+) from any previous reporting period for the appropriate locality.
- Add up the figures in each row (for items 1 through 4A), and enter the total amount for each Line in the Totals Column.
5. **Adjusted Tax Liability.** Enter the sum or difference (whichever is applicable) of Lines 4 and 4A in the Totals Column.

FURTHER INSTRUCTIONS

Schedule of Additional Tax is one page:
Transfer the amounts in each Line in the Totals Column to the corresponding Line in Column C of the Motor Vehicle Rental Tax Return (MCS-101).

Schedule of Additional Tax is more than one page:
Combine the totals for each Line in the Totals Column for all of the pages to obtain a Grand Total. Transfer the Grand Total (combined sum of each Line for all pages) to the corresponding Line in Column C of the Motor Vehicle Rental Tax Return (MCS-101).

Attach the Schedule of Additional Tax to the Motor Vehicle Rental Tax Return (MCS-101)

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.

BOARD OF DENTISTRY

REGISTRAR'S NOTICE: The Board of Dentistry has claimed an exemption from the Administrative Process Act in accordance with § 9-6.14:4.1 C 4 (a) of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law. The Board of Dentistry will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18 VAC 60-20-10 et seq. Virginia Board of Dentistry Regulations (amending 18 VAC 60-20-50).

Statutory Authority: §§ 54.1-2400 and 54.1-2700 of the Code of Virginia.

Effective Date: July 23, 1997.

Summary:

The amendment eliminates the requirement for documentation of a post course examination for a dental hygienist to receive continuing education credits. This amendment is a result of Chapter 3 of the 1997 Acts of Assembly, which amended § 54.1-2729 of the Code of Virginia.

Agency Contact: Copies of the regulation may be obtained from Marcia J. Miller, Board of Dentistry, 6606 West Broad Street, 4th Floor, Richmond, VA 23230, telephone (804) 662-9940.

18 VAC 60-20-50. Requirements for continuing education (CE).

A. After April 1, 1995, a dentist shall be required to have completed a minimum of 15 hours and a dental hygienist shall be required to have completed a minimum of 15 hours of approved continuing education in a program for each annual renewal of licensure.

Continuing education hours in excess of the number required for renewal may not be transferred or credited to another year.

B. An approved continuing dental education program shall be relevant to the treatment and care of patients and shall be:

1. Clinical courses in dentistry and dental hygiene; or
2. Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this subsection include, but are not limited to, estate planning, financial planning, investments, and personal health.

C. Continuing education credit may be earned for verifiable attendance at or participation in any courses, to include audio and video presentations, which meet the requirements in subdivision B 1 of this section and which are given by one of the following sponsors:

1. American Dental Association and National Dental Association, their constituent and component/branch associations;
2. American Dental Hygienists Association and National Dental Hygienists Association, their constituent and component/branch associations;
3. American Dental Association specialty organizations, their constituent and component/branch associations;
4. American Medical Association and National Medical Association, their specialty organizations, constituent, and component/branch associations;
5. Academy of General Dentistry, its constituent and component/branch associations;
6. Community colleges with an accredited dental hygiene program if offered under the auspices of the dental hygienist program;
7. A college, university, or hospital service which is accredited by an accrediting agency approved by the U.S. Office of Education;
8. The American Heart Association and the American Cancer Society;
9. A medical school which is accredited by the American Medical Association's Liaison Committee for Medical Education;
10. State or federal government agencies (i.e., military dental division, Veteran's Administration, etc.); or
11. Any other board approved programs.

D. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following his initial licensure.

E. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.

F. A licensee is required to provide information on compliance with continuing education requirements in his annual license renewal. Following the renewal period, the board may conduct an audit of licensees to verify compliance. Licensees selected for audit must provide

original documents certifying that they have fulfilled their continuing education requirements by the deadline date as specified by the board.

G. All licensees are required to maintain original documents verifying the date and subject of the program or activity. Documentation must be maintained for a period of four years following renewal. ~~Dental hygiene documentation shall evidence satisfactory completion of a post-course examination.~~

H. A licensee who has allowed his license to lapse, or who has had his license suspended or revoked, must submit evidence of completion of continuing education equal to the requirements for the number of years in which his license has not been active.

I. Continuing education hours required by disciplinary order shall not be used to satisfy the continuing education requirement for license renewal.

J. Penalty for noncompliance of continuing education for dentists and dental hygienists is \$1,000 per violation.

Department of Health Professions
COMMONWEALTH OF VIRGINIA
**RENEWAL NOTICE
AND APPLICATION**

Board of _____

Telephone _____

TYPE OF RENEWAL _____

NUMBER: _____

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

INSTRUCTIONS	
1. Complete items 1 and 2 to right, if renewing.	
2. Complete item 3 if you desire inactive status or do not wish to renew.	
3. Make any address changes on this application and enclose a copy of your marriage license or court order.	
4. Make any name changes on this application and enclose a copy of your marriage license or court order.	
5. Note name and license number on all enclosures.	
6. Return this application in the enclosed envelope.	

CURRENT EXPIRATION	RENEWAL PERIOD FROM	TO
ACTIVE LICENSE FEE \$	LATE PAYMENT PAY ONLY IF AFTER	

STATEMENTS	
1. I certify that I have met all continuing education requirements to renew this license.	<input type="checkbox"/> yes <input type="checkbox"/> no
If "no," enclose an explanation concerning your failure to comply or complete item 3 below.	
2. I swear that I have not made any misrepresentation on this renewal application and understand that furnishing false information constitutes cause for loss of license to practice.	Signature _____
3. Check the appropriate box and sign below.	
<input type="checkbox"/> I wish to take inactive status and enclose the inactive fee of:	\$ _____
<input type="checkbox"/> I do not wish to renew.	Signature _____

VA.R. Doc. No. R97-541; Filed May 27, 1997, 3:23 p.m.

Final Regulations

DEPARTMENT OF HEALTH (STATE BOARD OF)

Suspension of Regulatory Process

EDITOR'S NOTICE: Final action on the Rules and Regulations for the Licensure of Nursing Facilities was published in 13:17 VA.R. 2002-2030 May 12, 1997. Pursuant to § 9-6.14:7.1 K of the Code of Virginia, the State Board of Health is suspending the regulatory process on (i) the repeal of 12 VAC 5-370-400 and (ii) the adoption of 12 VAC 5-371-280. The repeal and adoption were scheduled to become effective on July 1, 1997. Only the above-referenced provisions of the Rules and Regulations for the Licensure of Nursing Facilities are suspended and will not go into effect on July 1, 1997. The regulatory process was suspended in order to solicit additional public comment on these provisions. 12 VAC 5-370-400, shown below, will remain in effect until notice of final action on these provisions is filed with the Registrar of Regulations after the conclusion of the additional comment period.

Public comments may be submitted until 5 p.m. on July 25, 1997. Only those comments which include citizens' names and addresses will be considered by the board. Direct comments to Nancy R. Hofheimer, Director, Center for Quality Health Care Services and Consumer Protection, 3600 West Broad Street, Suite 216, Richmond, Virginia 23230, telephone (804) 367-2102.

Title of Regulation: 12 VAC 5-370-10 et seq. Rules and Regulations for the Licensure of Nursing Homes (suspending the repeal of 12 VAC 5-370-400).

12 VAC 5-370-400. Patient activities.

A. Each nursing home shall provide purposeful activities suited to the needs and interest of each patient to encourage self care and resumption of normal activities, within limitations set by the patient's physician.

B. There shall be a designated staff member responsible for patient activities. This individual shall have experience and/or training in directing group activity. Fullest possible use should be made of community, social and recreational opportunities.

C. Patients shall be encouraged, but not forced, to participate in activities. Suitable activities shall be provided for patients unable to leave their rooms.

D. The nursing home shall provide adequate space and a variety of materials and supplies to satisfy the individual interest of patients.

12 VAC 5-371-10 et seq. Rules and Regulations for the Licensure of Nursing Facilities (suspending the adoption of 12 VAC 50-371-280).

12 VAC 5-371-280. (Regulatory process suspended.)

VA.R. Doc. No. R97-555; Filed June 2, 1997, 10:54 a.m.

BOARDS OF NURSING AND MEDICINE

Title of Regulation: 18 VAC 90-40-10 et seq. Regulations for Prescriptive Authority for Nurse Practitioners (amending 18 VAC 90-40-20, 18 VAC 90-40-50 and 18 VAC 90-40-100).

Statutory Authority: §§ 54.1-2400 and 54.1-2957.01 of the Code of Virginia.

Effective Date: July 23, 1997.

Summary:

The amendments (i) remove from 18 VAC 90-40-20 C repetitive language that is in the Code of Virginia and is, therefore, unnecessary; (ii) clarify the requirement for submission of a practice agreement with the renewal application in 18 VAC 90-40-50; and (iii) in 18 VAC 90-40-100, raise the number of nurse practitioners with prescriptive authority who may be supervised by one physician from two to four.

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 Nancy K. Durrett, R.N., Executive Director, Board of Nursing, 6606 West Broad Street, 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909.

18 VAC 90-40-20. Authority and administration of regulations.

A. ~~Statutory authority.~~ The statutory authority for this chapter is found in §§ 54.1-2957.01, 54.1-3303, 54.1-3401, and 54.1-3408 of the Code of Virginia.

B. Joint boards of nursing and medicine.

1. The Committee of the Joint Boards of Nursing and Medicine shall be appointed to administer this chapter governing prescriptive authority.

2. The boards hereby delegate to the Executive Director of the Virginia Board of Nursing the authority to issue the initial authorization and biennial renewal to those persons who meet the requirements set forth in this chapter. Questions of eligibility shall be referred to the committee.

3. All records and files related to prescriptive authority for nurse practitioners shall be maintained in the office of the Board of Nursing.

~~C. Exception to authority to prescribe. A licensed nurse practitioner who has met the requirements for approval shall have the authority to prescribe within the practice requirements as defined in Part III of this chapter with the exception of those licensed in the category of certified registered nurse anesthetist practitioners for whom this chapter is not applicable.~~

18 VAC 90-40-50. Renewal of prescriptive authority.

Practice Agreement, rev. 12/4/92.

An applicant for renewal of prescriptive authority shall:

Renewal Notice and Application, C-37128.

1. Renew biennially at the same time as the renewal of licensure to practice as a nurse practitioner in Virginia.
2. Submit a completed renewal application along with the renewal fee as prescribed in 18 VAC 90-40-70 of this chapter.
3. ~~Submit with the application for renewal of prescriptive authority a current practice agreement when there is a change, which is signed by the nurse practitioner and the supervising physician and which is acceptable to the boards. Submit a new practice agreement which meets the requirements of 18 VAC 90-40-90 with the renewal application if there has been a change since the last practice agreement was filed.~~

C-37128

18 VAC 90-40-100. Supervision and site visits.

A. Physicians, other than those employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs, shall:

1. Supervise and direct, at any one time, no more than ~~two~~ four nurse practitioners with prescriptive authority;
2. Regularly practice in any location in which the licensed nurse practitioner exercises prescriptive authority. A separate practice setting may not be established for the nurse practitioner;
3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device;
4. Regularly practice in the location in which the certified nurse midwife practices, or in the event that the midwife has established a separate office, the supervising physician shall conduct a monthly site visit and review of patient charts.

B. Physicians employed by, or under contract with local health departments, federally funded comprehensive primary care clinics, or nonprofit health care clinics or programs to provide supervisory services, shall:

1. Supervise and direct, at any one time, no more than four nurse practitioners with prescriptive authority who provide services on behalf of such entities;
2. Regularly practice in such settings or shall make monthly site visits to such settings for chart review and direction;
3. Conduct a monthly, random review of patient charts on which the nurse practitioner has entered a prescription for an approved drug or device.

FORMS

Application for Prescriptive Authority for Licensed Nurse Practitioners, rev. 12/4/92.

<p>INSTRUCTIONS</p> <ol style="list-style-type: none"> 1. Complete item 1 below if you do not wish to renew. 2. Make any address changes on this application when renewing. 3. If you are a nurse practitioner, your application and <i>must</i> enclose a copy of your current marriage license or court order. 4. Note name and license number on all enclosures. 5. Return this application in the enclosed envelope. <p>1. <input type="checkbox"/> Check here if you do not wish to renew, and sign below.</p> <p style="text-align: right;">_____ Signature</p>	
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Department of Health Professions
COMMONWEALTH OF VIRGINIA

RENEWAL NOTICE AND APPLICATION

	RENEWAL PERIOD	FROM	TO	
Board of	CURRENT EXPIRATION			LATE PAYMENT
Telephone	CURRENT AMOUNT DUE			PAY ONLY, I.E. AFTER
TYPE OF RENEWAL	\$			

NUMBER: _____

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"

Final Regulations

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
BOARDS OF NURSING AND MEDICINE
6606 WEST BROAD STREET, 4th FLOOR
RICHMOND, VA 23230-1717
(804)662-9909

Applying for Prescriptive Authority

I. Application

- A. Provide all requested information in Parts A through G.
- B. Enclose any documentation required or, where applicable, request that transcripts or other information be sent directly to the office of the Board of Nursing.
- C. Sign the affidavit in Part G before a Notary Public.
- D. Attach the required fee and mail the application to the office of the Virginia Board of Nursing at the address shown above.

II. Practice Agreement

- A. In consultation with the supervising physician, complete the practice agreement form. If you prefer, you may use your own design for the practice agreement as long as it contains the required information.
- B. Be sure that all parties sign the agreement.
- C. Mail the completed practice agreement to the Virginia Board of Nursing at the address shown above.
- D. Please note the requirements for reporting changes in the practice agreement in § 3.2.B.2. and 3. of the Regulations for Prescriptive Authority for Nurse Practitioners.

Please contact the Board of Nursing office if you have questions.

Explanatory Note: In § 2.2.2.c. of the Regulations for Prescriptive Authority for Nurse Practitioners, the term "continuing education units" is used. For the purpose of this section of the regulations, the Committee of the Joint Boards of Nursing and Medicine defines one continuing education unit to be equal to one contact hour.

Revised December 4, 1992

For Office Use Only	
Fee Rec'd:	Ack. Snt:
Pt. B Rec'd:	Pt. C Rec'd:
Approval:	
Auth. #0017-	
Date Issd:	

COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF HEALTH PROFESSIONS
 BOARDS OF NURSING AND MEDICINE
 6606 West Broad Street, Fourth Floor
 Richmond, Virginia 23230
 (804) 662-9909

APPLICATION FOR PRESCRIPTIVE AUTHORITY
 FOR LICENSED NURSE PRACTITIONERS

Please provide requested information below and on back of this page.

I hereby make application for approval of prescriptive authority. The following information in support of my application is submitted with a check or money order for \$50, made payable to the Treasurer of Virginia.

PART A. IDENTIFYING INFORMATION

Last Name	First Name	Middle Name	Maiden Name
Street Address (include Apt. No.)		City	State Zip Code
Social Security Number	Virginia LNP Number	Date of Birth	Telephone Number

PART B. REQUIRED QUALIFICATIONS

Circle the number of ONE of the following and provide the documentation indicated.

- Copy of document that verifies current professional certification as a Nurse Practitioner or nurse-midwife (such as ANCC, NCC, or ACNM); or.
- Transcript or letter sent to the Board of Nursing office from an educational program verifying satisfactory completion of a graduate level course in pharmacology or pharmacotherapeutics obtained as part of your nurse practitioner or nurse-midwifery education within the past five years; or.
- A statement from a supervisor or a personal affidavit in "Part F. Explanations" on the back of this page attesting to no less than 1000 hours of practice in each of the last two years and copies of documents verifying 15 hours of continuing education in each of the last two years; or.
- Evidence of 30 hours of education in pharmacology or pharmacotherapeutics taken within the last five years which includes applicable federal and state laws, prescription writing, drug selection, dosage, route and interactions, information resources, and clinical application related to your area of practice. This evidence must be either an official transcript from the institution offering a formal course or copies of documents verifying non-credit continuing education offerings.

Circle the number of your LNP category. If you have more than one NP license, circle each in which you wish to use prescriptive authority:

- | | | |
|--------------------------|----------------------------|-------------------|
| 01 Adult | 06 Emergency | 12 Maternal/Child |
| 02 Family | 07 Geriatric | 13 Neonatology |
| 03 Pediatric | 09 Certified Nurse Midwife | 14 Women's Health |
| 04 Family Planning | 10 School | |
| 05 Obstetric/Gynecologic | 11 Medical | |

PART C. PRACTICE AGREEMENTS.

Complete and Submit. (Attached form preferred)

(Over)

PART D. EMPLOYER (If Applicable)

Name: _____

Address: _____

Name of Primary Supervising Physician (if different from above): _____

Address (if different from above): _____

PART E. ANSWER THE FOLLOWING QUESTIONS. IF EITHER IS ANSWERED "YES," EXPLAIN IN "PART F" BELOW:

YES NO 1. Have you ever had disciplinary action taken against your license or certification in Virginia or any other jurisdiction?

YES NO 2. Is there any investigation of you or action pending against you in Virginia or any other jurisdiction?

PART F. EXPLANATIONS.

PART G. 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; that the statements contained herein are true; that he/she has complied with all requirements of the law, and that he/she has read and understands this affidavit.

Signature of Applicant

Sworn and subscribed to before me this _____ day of _____, 19_____.

Signature of Notary Public

SEAL

My Commission expires on _____

STATE CORPORATION COMMISSION

PROPOSED REGULATIONS

STATE CORPORATION COMMISSION

Bureau of Financial Institutions

Title of Regulation: 10 VAC 5-80-10 et seq. Real Estate Settlement Agent Rules.

Statutory Authority: §§ 6.1-2.25 and 12.1-13 of the Code of Virginia.

AT RICHMOND, MAY 22, 1997

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. BF1970060

Ex Parte: In the matter of adopting Real Estate Settlement Agent Rules

ORDER TO TAKE NOTICE

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code § 6.1-2.25 provides that the Commission may issue rules, regulations and orders consistent with and necessary to carry out the provisions of the Consumer Real Estate Settlement Protection Act (Va. Code § 6.1-2.19 et seq.)

WHEREAS, the Bureau of Financial Institutions has submitted to the Commission a proposed regulation entitled "Real Estate Settlement Agent Rules"; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

THEREFORE, IT IS ORDERED THAT:

(1) The proposed regulation entitled "Real Estate Settlement Agent Rules" be appended hereto and made a part of the record herein.

(2) A hearing will be held in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on July 30, 1997, for the purpose of considering the adoption of the proposed regulation.

(3) On or before June 30, 1997, any person desiring to comment in support of, or in opposition to, the proposed regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216.

(4) On or before June 30, 1997, any person intending to appear and be heard at the hearing on the proposed

regulation shall file written notice of his intention to do so with the Clerk of the Commission at the address above.

(5) All filings made under Paragraphs (3) or (4) shall contain a reference to Case No. BF1970060.

(6) An attested copy hereof, together with a copy of the proposed regulation, shall be sent to the Registrar of Regulations for appropriate publication in the Virginia Register.

(7) An attested copy hereof, together with a copy of the proposed regulation, shall be sent by the Clerk of the Commission to the Virginia State Bar and the Virginia Real Estate Board, and to the Commissioner of Financial Institutions who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order, together with a copy of the proposed regulation, to all banks, savings institutions, and credit unions known to be conducting business in Virginia, to all industrial loan associations chartered and operating under Virginia law, and to all licensed consumer finance companies.

(8) The Bureau of Financial Institutions shall file with the Clerk of the Commission a statement of compliance with the notice requirements of paragraph (7) above.

CHAPTER 80.

REAL ESTATE SETTLEMENT AGENT RULES.

10 VAC 5-80-10. Definitions.

As used in this chapter:

"Affiliate" means a company the majority of the ownership interest in which is held, directly or indirectly, by a company which owns a financial institution.

"Bureau" means the State Corporation Commission Bureau of Financial Institutions.

"Company" includes natural persons and any and all types of organizations and legal entities.

"Financial institution" has the meaning set forth in § 6.1-2.1 of the Code of Virginia, and includes all such financial institutions authorized to do business in Virginia under Virginia or federal law.

"Settlement agent" has the meaning set forth in § 6.1-2.20 of the Code of Virginia.

"Subsidiary" means a company the majority of the ownership interest in which is held, directly or indirectly, by a financial institution.

10 VAC 5-80-20. Registration with the Virginia State Bar.

All financial institutions, and their subsidiaries and affiliates, acting in the capacity of a settlement agent shall register with the Virginia State Bar in accordance with the provisions of § 6.1-2.26 of the Code of Virginia.

State Corporation Commission

10 VAC 5-80-30. Financial responsibility requirements.

All financial institution subsidiaries and affiliates shall maintain in effect at all times while acting in the capacity of a settlement agent, and file original form or copy as specified in this chapter with the bureau at the time of registration with the Virginia State Bar and annually thereafter, the following:

1. An errors and omissions insurance policy, issued by an insurance company licensed to conduct business in Virginia, providing limits of at least \$250,000 per occurrence or per claim, a copy thereof to be filed with the bureau;
2. A blanket fidelity bond with corporate surety licensed to conduct business in Virginia in the amount of at least \$100,000 per occurrence or per claim, the original of such bond to be filed with the bureau; or an employee dishonesty insurance policy issued by an insurance company licensed to conduct business in Virginia, providing limits of at least \$100,000 per occurrence or per claim, a copy thereof to be filed with the bureau. If the company has no employees except its owners, partners, shareholders or members, it may apply to the bureau for a waiver of the requirements of this subdivision; and
3. A bond with corporate surety licensed to conduct business in Virginia on a form prescribed by the Commissioner of Financial Institutions in the amount of at least \$100,000, the original of such bond to be filed with the bureau.

10 VAC 5-80-40. Escrow accounts and audits.

All funds received by a financial institution or financial institution subsidiary or affiliate, in the company's capacity of settlement agent and intended for distribution in whole or part to others, shall be deposited in a separate escrow account maintained in a bank, savings institution or credit union authorized to conduct business in Virginia. The company shall have the escrow account audited annually as provided in § 6.1-2.21 E of the Code of Virginia and conforming to the American Institute of Certified Public Accountants, Statement on Auditing Standards, No. 62, effective July 1, 1989, and shall file a copy of the audit report with the bureau promptly.

10 VAC 5-80-50. Unauthorized practice of law guidelines.

All financial institutions and financial institution subsidiaries and affiliates shall maintain a sufficient supply of the Virginia State Bar's Unauthorized Practice of Law Guidelines so that they can provide a copy of the guidelines to parties to real estate settlements who request them.

10 VAC 5-80-60. Access to records.

All financial institutions and financial institution subsidiaries and affiliates acting as settlement agents shall give personnel of the bureau full access to all records relating to such business upon request.

DOCUMENT INCORPORATED BY REFERENCE

Statement on Auditing Standards, No. 62, eff. July 1, 1989, American Institute of Certified Public Accountants.

VA.R. Doc. No. R97-543; Filed May 29, 1997, 11:07 a.m.

Title of Regulation: 10 VAC 5-170-10 et seq. Electronic Funds Transfer (REPEALING).

Statutory Authority: § 12.1-13 of the Code of Virginia.

AT RICHMOND, MAY 30, 1997

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI970062

Ex Parte: In the matter of
repealing the "Virginia Electronic
Funds Transfer (EFT) Regulations"

ORDER DIRECTING NOTICE

Chapter 141 of the 1997 Acts of the General Assembly repealed § 6.1-39.4 of the Code of Virginia, which has required the Commission to promulgate and maintain regulations relating to state banks' utilization of "electronic, computer or similar terminals." Effective July 1, new § 6.1-39.4:1 will permit the Commission to adopt regulations affecting electronic funds transfers by banks, if the Commission finds that such regulations are necessary for the protection of the public interest.

The Bureau of Financial Institutions has advised the Commission that the purposes formerly served by the subject regulations are now covered by other provisions of Virginia law and by Regulation E, "Electronic Funds Transfer," of the Federal Reserve Board. The Bureau recommends that the subject regulation be repealed and states that currently there is no need for a Commission regulation under § 6.1-39.4:1. Accordingly, the Commission proposes to repeal the "Virginia Electronic Funds Transfer (EFT) Regulations" (Chapter 170 (10 VAC 5-170-10 et seq.) of Title 10 of the Virginia Administrative Code).

It appearing that interested parties should be afforded notice of the proposed repeal and an opportunity to be heard in the matter, IT IS ORDERED THAT:

(1) This matter be assigned Case No. BFI970062 and papers relating to this matter be filed therein.

(2) On or before July 14, 1997, any interested person may file comments in support of, or in opposition to, repeal of the subject regulation, or a written request for a hearing in the matter. All comments and requests for a hearing shall be filed with the Clerk, State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any comment or request for a hearing filed shall make reference to Case No. BFI970062.

(3) This order shall be sent forthwith to the Registrar of Regulations for appropriate publication in the Virginia Register.

(4) The Bureau of Financial Institutions shall send a copy of this order to every bank and savings institution chartered under Title 6.1, the Virginia Bankers Association, the Virginia Citizens Consumer Council, the Virginia Poverty Law Center, and the Office of the Attorney General, Division of Consumer Counsel, and provide a copy to any other interested person who requests one.

This order shall also be available for inspection at, or distribution from, the Commission's Document Control Center, Tyler Building, First Floor, 13th and Main Streets, P.O. Box 2118, Richmond, Virginia 23218, telephone (804) 371-9033.

ATTESTED COPIES hereof shall be sent to the Commissioner of Financial Institutions and the Office of General Counsel.

VA.R. Doc. No. R97-558; Filed June 3, 1997, 9:40 a.m.

Bureau of Insurance

Title of Regulation: 14 VAC 5-395-10 et seq. Rules Governing Settlement Agents.

Statutory Authority: §§ 6.1-2.25 and 12.1-13 of the Code of Virginia.

AT RICHMOND, MAY 22, 1997

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

v. CASE NO. INS970154

Ex Parte: In the matter of adopting Rules Governing Settlement Agents

ORDER TO TAKE NOTICE

WHEREAS, Virginia Code § 12.1-13 provides that the Commission shall have the power to promulgate rules and regulations in the enforcement and administration of all laws within its jurisdiction, and Virginia Code § 6.1-2.25 provides that the Commission may issue rules, regulations and orders consistent with and necessary to carry out the provisions of the Consumer Real Estate Settlement Protection Act (Va. Code § 6.1-2.19 et seq.)

WHEREAS, the Bureau of Insurance has submitted to the Commission a proposed regulation entitled "Rules Governing Settlement Agents"; and

WHEREAS, the Commission is of the opinion that a hearing should be held to consider the adoption of the proposed regulation;

THEREFORE, IT IS ORDERED:

(1) That the proposed regulation entitled "Rules Governing Settlement Agents" be appended hereto and made a part of the record herein;

(2) That a hearing be held in the Commission's Courtroom, Second Floor, Tyler Building, 1300 East Main Street, Richmond, Virginia at 10:00 a.m. on July 30, 1997, for the purpose of considering the adoption of the proposed regulation;

(3) That, on or before June 30, 1997, any person desiring to comment in support of, or in opposition to, the proposed regulation shall file such comments in writing with the Clerk of the Commission, Document Control Center, P.O. Box 2118, Richmond, Virginia 23216;

(4) That, on or before June 30, 1997, any person intending to appear and be heard at the hearing on the proposed regulation shall file written notice of his intention to do so with the Clerk of the Commission at the address above;

(5) That all filings made under paragraphs (3) or (4) shall contain a reference to Case No. INS970154;

(6) That an attested copy hereof, together with a copy of the proposed order, be sent by the Clerk of the Commission to the Registrar of Regulations for appropriate publication in the Virginia Register;

(7) That an attested copy hereof, together with a copy of the proposed regulation, be sent by the Clerk of the Commission to the Virginia State Bar, the Virginia Real Estate Board, and the Bureau of Insurance in care of Deputy Commissioner Mary M. Bannister who shall forthwith give further notice of the proposed regulation and hearing by mailing a copy of this order, together with a copy of the proposed regulation, to all title insurance companies, title insurance agents, and title insurance agencies licensed in the Commonwealth of Virginia; and

(8) That the Bureau of Insurance shall file with the Clerk of the Commission an affidavit of compliance with the notice requirements of paragraph (7) above.

CHAPTER 395.

RULES GOVERNING SETTLEMENT AGENTS.

14 VAC 5-395-10. Purpose.

A. The purpose of this chapter is to implement the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia).

B. This chapter applies to all title insurance agents, title insurance agencies and title insurance companies providing escrow, closing or settlement services involving the purchase or financing of real estate containing not more than four residential dwelling units in the Commonwealth of Virginia.

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C. The Bureau of Insurance shall issue the necessary forms to carry out the provisions of the Act and this chapter.

14 VAC 5-395-20. Definitions.

As used in this chapter:

"Act" means the Consumer Real Estate Settlement Protection Act (§ 6.1-2.19 et seq. of the Code of Virginia). Unless otherwise defined herein, all terms used in this chapter shall have the meaning as set forth in the Act.

"Agent" or "insurance agent," when used without qualification, means an individual, partnership, limited liability company, or corporation that solicits, negotiates, procures or effects contracts of insurance or annuity in this Commonwealth.

"Bureau" means the State Corporation Commission Bureau of Insurance.

"Title insurance agent" means an agent licensed in this Commonwealth to solicit, negotiate, procure, or effect title insurance on behalf of title insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.) of Title 38.2 of the Code of Virginia.

"Title insurance agency" means a partnership, limited liability company, or corporation licensed in this Commonwealth as a title insurance agent.

"Title insurance company" means any company licensed to transact, or transacting, title insurance in this Commonwealth.

14 VAC 5-395-30. Registration.

Every title insurance agent, title insurance agency and title insurance company providing escrow, closing or settlement services involving the purchase or financing of real estate containing not more than four residential dwelling units shall register as a settlement agent with the Virginia State Bar in accordance with the provisions of § 6.1-2.26 of the Code of Virginia.

14 VAC 5-395-40. Insurance and bonding requirements.

A. Every title insurance agent and title insurance agency that acts as a settlement agent in the Commonwealth of Virginia shall file with the bureau at the time of registration with the Virginia State Bar and on or before July 1, every year thereafter, a copy of its errors and omissions insurance policy, or evidence of such insurance policy, providing limits of at least \$250,000 per occurrence or per claim and issued by an insurer authorized to do business in the Commonwealth of Virginia.

B. Every title insurance agent and title insurance agency that acts as a settlement agent in the Commonwealth of Virginia shall file with the bureau at the time of registration with the Virginia State Bar and on or before July 1, every year thereafter, a copy of its blanket fidelity bond or employee dishonesty insurance policy, or evidence of such bond or insurance policy, providing limits of at least \$100,000 per occurrence or per claim and issued by an insurer authorized to do business in the Commonwealth of Virginia. Settlement

agents that have no employees except the owners, partners, shareholders, or members may file annually with the bureau a waiver of the fidelity bond or employee dishonesty insurance policy. Such waiver shall be on a form prescribed by the bureau.

C. Every title insurance agent and title insurance agency shall file with the bureau a surety bond in an amount not less than \$100,000 on a form prescribed by the bureau. Such surety bond shall be filed with the bureau at the time of registration with the Virginia State Bar and, if such bond is canceled, at the time a replacement bond is issued.

14 VAC 5-395-50. Audits.

A. Every title insurance agent, title insurance agency, and title insurance company that acts as a settlement agent in the Commonwealth of Virginia shall, at its expense, have an annual audit of its escrow accounts conducted by an independent certified public accountant on a calendar year basis by not later than six months after the close of the previous calendar year. Such annual audit shall conform with the standards established by the American Institute of Certified Public Accountants, Statement on Auditing Standards, No. 62, effective July 1, 1989, and shall be filed with the bureau annually on or before July 1.

B. Every title insurance agent or title insurance agency acting as a settlement agent shall file a copy of its annual audit report with each title insurance company it represents.

C. In lieu of an audit conducted by a certified public accountant, a title insurance agent or title insurance agency acting as a settlement agent shall allow each title insurance company for which it has an appointment to conduct an annual audit of its escrow accounts on a calendar year basis by not later than six months after the close of the previous calendar year. The form of such annual audit shall be prescribed by the bureau. The title insurance company shall submit a copy of its audit report to the bureau annually on or before July 1. With the consent of the title insurance agent, a title insurance company may share the results of its audit with other title insurance companies that will accept the same in lieu of conducting a separate audit.

14 VAC 5-395-60. Separate fiduciary trust account.

Every title insurance agent, title insurance agency and title insurance company that acts as a settlement agent in the Commonwealth of Virginia shall maintain a separate fiduciary trust account for the purpose of handling funds received in connection with escrow, closing, or settlement services. No other funds may be included in this escrow account. Such trust account shall be with a financial institution authorized to do business in the Commonwealth of Virginia.

14 VAC 5-395-70. Access to records.

Every title insurance agent, title insurance agency and title insurance company that acts as a settlement agent in the Commonwealth of Virginia shall make all escrow, closing, or settlement records available promptly upon request for

examination by the bureau without notice during normal business hours.

14 VAC 5-395-80. Violations.

Any violation of this chapter shall be punished as provided for in the Act.

14 VAC 5-395-90. Severability.

If any provision of this chapter or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

DOCUMENT INCORPORATED BY REFERENCE

Statement on Auditing Standards, No. 62, eff. July 1, 1989, American Institute of Certified Public Accountants.

VA.R. Doc. No. R97-542; Filed May 29, 1997, 11:07 a.m.

ADMINISTRATIVE LETTERS

Bureau of Insurance

May 28, 1997

Administrative Letter 1997-5

TO: All Title Insurance Companies, Title Insurance Agencies, and Title Insurance Agents Licensed in Virginia

RE: Senate Bill No. 1104 (The Consumer Real Estate Settlement Protection Act)

The 1997 Session of the Virginia General Assembly passed Senate Bill No. 1104 which requires settlement agents to register with the Virginia State Bar within 90 days of the effective date of the Act. The Act goes into effect on July 1, 1997. A copy of Senate Bill No. 1104 is attached for your review.

All title insurance agents, title insurance agencies, and title insurance companies acting in the capacity of a settlement agent must register with the Virginia State Bar by September 30, 1997. Draft copies of the Virginia State Bar's settlement agent registration forms are attached.

With the exceptions noted in the highlighted area on page 2 of this administrative letter, every title insurance agency and every title insurance agent acting as a settlement agent will be required to file annually with the Bureau of Insurance at the time of registration and each subsequent year thereafter a copy of its errors and omissions or malpractice insurance policy, or evidence of such insurance policy, providing limits of at least \$250,000 per occurrence or per claim and issued by an insurer authorized to do business in Virginia. Every title insurance agency and every title insurance agent acting as a settlement agent will also be required to file annually with the Bureau of Insurance at the

time of registration and each subsequent year thereafter a copy of its blanket fidelity bond or employee dishonesty policy, or evidence of such bond or insurance policy, providing limits of at least \$100,000 per occurrence or per claim and issued by an insurer authorized to do business in Virginia, or file a waiver if the settlement agent has no employees. Every title insurance agency and every title insurance agent acting as a settlement agent will be required to file a surety bond with the Bureau of Insurance when the settlement agent first becomes registered and at any time a replacement bond is issued. A copy of the surety bond form and waiver form are attached.

With the exceptions noted in the highlighted area on page 2 of this administrative letter, every licensed title insurance company, title insurance agency, and title insurance agent that acts as a settlement agent will be required to file annually with the Bureau of Insurance a copy of the audit of its settlement escrow account conducted by an independent certified public accountant. Each settlement agent that is a licensed title insurance agent or agency must also file the audit report with each title insurance company it represents. In lieu of a CPA audit, a title insurance agent or agency shall allow each title insurance company for which it has an appointment to conduct the annual audit of its settlement escrow account. The title insurance company must file a copy of this audit report annually with the Bureau of Insurance. With the consent of the title insurance agent or agency, a title insurance company may share the results of this audit with other title insurance companies that will accept the same in lieu of conducting a separate audit.

Note: The Virginia State Bar is requiring persons authorized to conduct real estate settlement services to designate in what capacity they are conducting those services. If you are an attorney/title insurance agent and you opt to register as an attorney settlement agent, you will come under the jurisdiction of the Virginia State Bar. If you are a real estate broker/title insurance agent and you opt to register as a real estate broker settlement agent, you will come under the jurisdiction of the Virginia Real Estate Board.

The following are answers to frequently asked questions regarding the implementation of Senate Bill No. 1104.

1. May a settlement agent retain microfiche copies of records in lieu of hard copy records?

Yes.

2. Can records be stored off-site?

Off-site storage is allowed as long as the records are made available promptly upon request for examination by the Commission or its employees during normal business hours. Any expenses associated with off-site storage are the responsibility of the settlement agent.

3. How long must records be maintained?

Three years for insurance records and five years for settlement agent records.

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4. How long must records be maintained and who has to retain the records after the settlement agent goes out of business?

The law requires that settlement records be maintained by the settlement agent for a period of five years. The law does not provide an exception for those individuals or entities that choose to no longer act as a settlement agent.

5. If a title insurance agency or title insurance company registers as a settlement agent, do their employees have to register individually as well?

No. The employees will come under the title insurance agency's or title insurance company's settlement agent registration.

6. If a title insurance agency registers as a settlement agent, do the employees who are acting as settlement agents have to be licensed as title insurance agents?

No, as long as they are not acting as title insurance agents. However, please refer to Administrative Letter 1997-1 (Insurance Activities Requiring Persons to Be Licensed).

7. If a title insurance agent who is the owner of an agency registers individually as a settlement agent rather than as a corporation, do the other title insurance agents in the same agency who are acting in the capacity of a settlement agent have to register as settlement agents even if they are the owner's employees?

Yes.

8. Who is responsible for ensuring that employees who perform settlement services comply with the Virginia State Bar's Unauthorized Practice of Law Guidelines and the State Corporation Commission's Rules Governing Settlement Agents?

The licensed agent, agency, or company is responsible for ensuring that its employees comply with the Unauthorized Practice of Law Guidelines and the Commission's regulation.

9. Who is responsible for the actions of independent contractors who act as settlement agents?

An independent contractor generally has the ability to control the performance of his own work. If an independent contractor is not covered under the settlement agent's E&O policy, surety bond, and fidelity bond, the independent contractor must maintain his own E&O policy, surety bond, and fidelity bond and must register as a settlement agent. Any person who is under the direct supervision and control of the employer in the day-to-day performance of his work is generally considered an employee and must be covered under the settlement agent's E&O policy, surety bond, and fidelity bond. Temporary employees who are hired to meet specific workload requirements and who are under the direct supervision and control

of the employer are generally considered employees and must be covered under their employer's E&O policy, surety bond, and fidelity bond.

10. Does the statute require a certain deductible under the E&O policy?

No.

11. Will there be coordination between Va., Md., & the D.C. requirements?

A separate surety bond will be needed in each jurisdiction because Virginia and Maryland require that they be named as an obligee on the bond, and the limits of the bond are for the separate protection of each state's citizens. E&O coverage and fidelity bond or employee dishonesty coverage can be written to cover the settlement agent's operations in several states.

12. May a settlement agent add an endorsement to a Businessowners Policy to cover employee dishonesty and still be in compliance with the statute?

Yes, as long as the limits are sufficient to meet the requirements of the law.

13. Do settlement escrow accounts have to be kept separate from all other accounts?

Yes. Settlement funds must be maintained in a separate fiduciary trust account and may not be commingled with any insurance funds or any other funds. Furthermore, a settlement agent may not retain any interest received on funds deposited into this account.

14. Does a title insurance company acting in the capacity of a settlement agent have to maintain a separate fiduciary trust account?

Yes.

15. What are the minimum standards for a CPA audit of a settlement agent?

These are set out by the American Institute of Certified Public Accountants, Statement on Auditing Standards, No. 62.

16. If a title insurance company is acting as a settlement agent, does the title insurance company's audit of its settlement escrow account have to be conducted by an independent CPA?

Yes.

17. If a title insurance agent has appointments with several title insurance companies, do all of the companies have to conduct an audit if it is not being conducted by an independent CPA?

No, as long as one company does the audit and will share it with the other companies. The audit must be

on the entire escrow account and not just on that one company's business.

18. If a title insurance agent, who is a settlement agent, is audited by a title insurance company, does that company have to use a CPA to perform the audit?

No. However, the Bureau is establishing standards that are both comprehensive and uniform that will be required to be used by title insurance companies conducting these audits.

19. When and on what basis must the settlement agent's annual audit be conducted and when must it be submitted to the Bureau?

The audit must be conducted on a calendar year basis not later than six months after the close of the previous calendar year. The audit report must be filed with the Bureau annually on or before July 1.

20. How long does a settlement agent have to retain his audit reports?

Five years.

21. If several title insurance agencies come under common ownership, can they use the same surety bond?

No. If each title insurance agency is a separate legal entity, they must have their own surety bond.

22. If several title insurance agencies come under common ownership, can they use the same E&O coverage and fidelity bond?

No. If each title insurance agency is a separate legal entity, they must have their own E&O coverage and blanket fidelity bond or employee dishonesty policy.

23. If a settlement agent is licensed as a title insurance agent and is also an attorney or a real estate broker, which licensing authority will have jurisdiction over his conduct as a settlement agent?

This will be determined according to how the person registers with the Virginia State Bar. If the person agent registers as an attorney settlement agent, he will come under the jurisdiction of the Virginia State Bar. If he registers as a real estate broker settlement agent, he will come under the jurisdiction of the Virginia Real Estate Board. If he registers as a title insurance settlement agent, he will come under the jurisdiction of the Bureau of Insurance.

24. Are there any requirements of title insurance agents who are registered as settlement agents which are not required of attorneys who are registered as settlement agents?

Yes. A title insurance agent who is registered as a settlement agent must have an annual audit conducted by a CPA or a title insurance company. Also evidence of E&O coverage and fidelity bond or

employee dishonesty coverage will have to be provided to the Bureau of Insurance. This is in addition to the surety bond which will have to be filed. It appears from the Virginia State Bar's draft regulation that attorney settlement agents will not be required to file with the Virginia State Bar evidence of their E&O coverage, fidelity bond or employee dishonesty coverage, or surety bond. However, attorney settlement agents will be required to certify that these coverages are in place. Further, the Virginia State Bar intends to conduct random audits to verify the accuracy of the certification and whether such coverages are, in fact, in place.

25. Will the Bureau send an acknowledgment to settlement agents verifying that the Bureau has received the settlement agent's bond forms and evidence of insurance coverage?

Yes. The Bureau will send the settlement agent an acknowledgment.

Questions concerning this administrative letter may be addressed to the P&C Agents Investigation Section at (804) 371-9465.

/s/ Alfred W. Gross
Commissioner of Insurance

VA.R. Doc. No. R97-559; Filed June 3, 1997, 9:38 a.m.

June 6, 1997

Administrative Letter 1997-6

TO: All Insurers, Health Services Plans, Health Maintenance Organizations (HMOs) and Other Interested Parties

RE: Legislation Enacted by the 1997 Virginia General Assembly

We have attached for your reference summaries of certain statutes enacted or amended and re-enacted during the 1997 Session of the Virginia General Assembly. **The effective date of these statutes is July 1, 1997, except as otherwise indicated in this letter.** Each organization to which this letter is being sent should review the attachments carefully and see that notice of these laws is directed to the proper persons, including appointed representatives, to ensure that appropriate action is taken to effect compliance with these new legal requirements. Please note that this document is a summary of legislation. It is neither a legal review and interpretation nor a full description of the legislative amendments made to insurance-related laws during the 1997 Session. Each organization is responsible for legal review of the statutes pertinent to its operations.

/s/ Alfred W. Gross
Commissioner of Insurance

State Corporation Commission

NOTE: Except where otherwise indicated, all bills are effective 7/1/97

PROPERTY AND CASUALTY BILLS

Chapter 26 (Senate Bill 882)

This bill amends § 38.2-317 of the Code of Virginia by giving the State Corporation Commission (SCC) the authority to withdraw approval of a policy form or endorsement previously approved. If the SCC proposes to withdraw approval, it must notify the insurer in writing at least 90 days prior to the proposed effective date of withdrawal and must give its reasons for withdrawal. The bill also gives the SCC the authority to extend for an additional 30 days the period within which it may approve or disapprove a policy form or endorsement. The bill further states that if, at the end of the 30 days, the period has not been extended, or at the expiration of the extended period, a policy form or endorsement has not been approved or disapproved by the SCC, it shall be deemed approved if written notice of the intent to use the policy form or endorsement has been filed with the SCC. Such notice may be filed at the end of the 30 days if the period has not been extended or at the expiration of the extended period.

Chapter 30 (Senate Bill 1071)

This bill amends § 59.1-436 in Title 59.1 (Trade and Commerce) by removing from the regulatory jurisdiction of the Bureau of Insurance the providers of extended service contracts sold on motor vehicles. Providers of motor vehicle extended service contracts, including third party obligors, will now be regulated by the Department of Agriculture and Consumer Services under Title 59.1, along with providers of other extended service contracts.

Chapter 153 (House Bill 2244)

This bill amends §§ 38.2-1901 and 38.2-1903 by allowing retrospective rating plans for large risks to be exempt from the rate filing requirements of Chapter 19 (Regulation of Rates Generally) of Title 38.2. Large risks are defined as those which generate total estimated standard premium for workers' compensation of at least \$500,000 annually (or less or in combination with other lines if approved by the SCC). Copies of large risk rating plans must be made available to the SCC upon request, and insurers' experience attributable to large risks must be filed with the SCC in accordance with § 38.2-1919.

Chapter 157 (House Bill 2276)

This bill adds a new section § 38.2-235, to prohibit liability insurance policies from excluding coverage for the discharge, dispersal, seepage, migration, release, emission, leakage, or escape of carbon monoxide from a residential or commercial heating system unless the policy explicitly makes reference to the exclusion.

Chapter 170 (Senate Bill 959)

This bill is very similar to House Bill 2501. It amends the definition of "uninsured motor vehicle" in § 38.2-2206. Under the amended definition, a vehicle is uninsured if the owner or operator is immune from liability for negligence under the laws of the Commonwealth or the United States. The bill also states that immunity from liability for negligence of the owner or operator of a motor vehicle shall not be a bar to the insured obtaining a judgment enforceable against the insurer and shall not be a defense available to the insurer to the action brought by the insured.

Chapter 191 (House Bill 2501)

This bill amends the definition of "uninsured motor vehicle" in § 38.2-2206. Under the amended definition, a vehicle is uninsured if the owner or operator is immune from liability for negligence under the laws of the Commonwealth or the United States. The bill also states that immunity from liability for negligence of the owner or operator of a motor vehicle shall not be a bar to the insured obtaining a judgment enforceable against the insurer for the negligence of the immune owner or operator and shall not be a defense available to the insurer to the action brought by the insured.

Chapter 199 (Senate Bill 1065)

This bill repeals §§ 38.2-1905.1 and 38.2-1905.2. Insurers will no longer be required to file their supplemental reports previously due on May 1. Sections 38.2-1905.1 and 38.2-1905.2 required the SCC to file a biennial report with the General Assembly naming the lines of commercial liability insurance found to be potentially non-competitive; required insurers to file supplemental report information for the lines designated as potentially non-competitive; and required the SCC to hold a hearing biennially to determine which lines should be subject to delayed-effect rate regulation. Amendments to § 38.2-1906 (filing and use of rates) have been made for consistency.

Chapter 377 (House Bill 1997)

This bill amends § 38.2-2226 by requiring an insurer to give the claimant or the claimant's counsel notice of an insured's breach of the insurance contract regardless of whether the insurer intends to rely on the breach as a defense. This notice must be given within 45 days from the date the breach was discovered or from the date of the claim, whichever is later. Furthermore, whenever a nonwaiver of rights agreement is executed or whenever the insurer sends an insured a reservation of rights letter, notification must also be given to the claimant or the claimant's counsel. This must be given within 45 days after the agreement is executed or the letter is sent or after notice of the claim is received, whichever is later. Failure to give 45 days' notice will result in the insurer not being allowed to use the breach of contract as a defense.

Chapter 399 (House Bill 2384)

This bill amends § 38.2-5016 by requiring the Board of Directors (Board) of the Birth-Related Neurological Injury Compensation Fund (Fund) to discharge its duties solely in the interest of the recipients of awards pursuant to § 38.2-

5009 and to seek the advice of an investment advisor whenever decisions are made regarding the investment of the Fund's assets. The Board is also required to report its investments annually to the Speaker of the House and the Chairman of the Senate Rules Committee.

Chapter 401 (House Bill 2418)

This bill amends § 8.01-66.1 (Civil Remedies) pertaining to the bad faith refusal of an insurer to pay a motor vehicle claim. An insurer who in bad faith refuses to pay its insured's claim of \$2,500 or less in excess of the deductible must pay double the amount otherwise due and payable plus attorney's fees and expenses. An insurer who in bad faith refuses to pay a third party's claim of \$2,500 or less must pay double the amount of the judgment awarded to the claimant plus attorney's fees and expenses. An insurer who in bad faith refuses to pay its insured's claim of more than \$2,500 in excess of the deductible must pay the insured the amount otherwise due and payable plus interest on the amount due at double the rate of interest provided in § 6.1-330.53 from the date the claim was submitted, plus attorney's fees and expenses.

Chapter 410 (House Bill 2673)

This bill adds a new section § 65.2-813.2 to the Workers' Compensation Act, requiring insurers to give a premium discount of up to 5% to employers that institute a drug-free workplace program. The program must satisfy the insurer's underwriting criteria in order to qualify for the discount. The discount is limited to four years. In order to comply with this provision of the Workers' Compensation Act, all insurers writing workers' compensation insurance in Virginia must file their drug-free workplace premium credit and eligibility criteria with the Bureau of Insurance on or before July 1, 1997.

Chapter 503 (House Bill 2541)

This bill amends § 8.01-413.01 (Civil Remedies) and § 38.2-2201 of Title 38.2. The bill states that an expense is deemed to have been incurred (a) if the insured is directly responsible for payment of the expense; (b) if the expense is paid by (i) a health care insurer pursuant to a negotiated contract with the health care provider; or (ii) Medicaid or Medicare, where the actual payment with reference to the medical bill rendered by the provider is less than or equal to the provider's usual and customary fee, in the amount of the actual payment; however, if the insured is required to make a payment in addition to the actual payment by the health care insurer or Medicaid or Medicare, the amount shall be increased by the payment made by the insured; (c) if no medical bill is rendered or specific charge made by a health care provider to the insured, an insurer, or any other person, in the amount of the usual and customary fee charged in that community for the service rendered.

TITLE BILLS

Chapter 426 (House Bill 2892)

This bill amends § 38.2-4601.1 by requiring that title insurance agents holding any funds in escrow must promptly

deposit those funds in a trust account in a financial institution licensed in Virginia. The trust account must be kept separate from all other accounts held by the title agent.

Chapter 716 (Senate Bill 1104)

This bill adds Chapter 1.3 to Title 6.1 (Banking and Finance) requiring settlement agents to register with the Virginia State Bar within 90 days of the effective date of the Consumer Real Estate Settlement Protection Act. The Bureau of Insurance will be responsible for regulating the activities of settlement agents who are title insurance agents or title insurance companies. The Virginia State Bar will oversee the activities of settlement agents who are attorneys, and the Virginia Real Estate Board will regulate settlement agents who are real estate brokers. Settlement agents other than title insurance companies and financial institutions will be required to maintain an errors and omissions or malpractice policy providing a minimum of \$250,000; a blanket fidelity bond or employee dishonesty policy providing a minimum of \$100,000 which may be waived when there are no employees; and a surety bond of not less than \$100,000. Settlement agents who are not attorneys will be required to have an annual audit of their escrow accounts. A disclosure will be required to be given in real estate contracts involving the purchase of four or fewer residential dwelling units. The disclosure must advise the purchaser that he has a choice of settlement agents; that settlement agents may not give legal advice if they are not attorneys in the private practice of law in Virginia representing a party to the transaction; and that guidelines issued by the Virginia State Bar are available to the purchaser regarding the unauthorized practice of law. The bill also sets forth conditions for providing escrow services and maintaining escrow accounts, and it requires settlement agents to maintain their records for five years.

INSURANCE AGENTS AND CONTINUING EDUCATION BILLS

Chapter 513 (House Bill 2817)

This bill amends § 38.2-1816 in the Agents Chapter of Title 38.2. The bill provides that the 45-hour prelicensing study course for a property and casualty or life and health agent's license, and the 25-hour prelicensing study course for a health agent's license, may be completed by classroom instruction or distance learning or any combination thereof. The bill defines "distance learning" as meaning instruction delivered under the general supervision of an instructor through a medium other than a classroom setting. The bill also defines "classroom instruction" as meaning actual hours in a classroom environment with an instructor. The bill authorizes instructors to consider the requirement met if the applicant is present for no less than 95% of the required hours.

NOTE: It is the Bureau's interpretation that the term "distance learning" is NOT synonymous with the term "self-study." Distance learning requires supervision of an instructor, although the instructor may not be physically present. Distance learning provides a means for those who

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are geographically removed from convenient access to classroom instruction to participate via video conference, CD-ROM, Internet or other means. Those providing prelicensing education are urged not to interpret this term too broadly.

Chapter 583 (Senate Bill 1082)

This bill amends §§ 38.2-1816, 38.2-1818, 38.2-1822, 38.2-1825, 38.2-1838, 38.2-1841, 38.2-1869 and 38.2-1871 in the Agents Chapter of Title 38.2. The bill also enacts § 38.2-1800.1.

A new § 38.2-1800.1 defines more specifically the residency requirements for the purpose of licensing agents and consultants. Such specific requirements will help prevent abuses by non-residents who falsely obtain or retain a Virginia resident license.

Amendments to § 38.2-1816 define the terms "classroom instruction and distance learning" when used to describe the agents' prelicensing study course, and provide sanctions against instructors and applicants who submit materially false certifications regarding completion of course work.

An amendment to § 38.2-1818 provides for a 60-day grace period for nonresident agents moving to Virginia while they are in the process of becoming Virginia licensed agents.

An amendment to § 38.2-1822 adds appropriate references to limited liability companies, in addition to current references to limited partnerships and corporations, and makes statutory language consistent for limited liability companies.

Sections 38.2-1825 A 2 and 38.2-1841 B are amended to allow a period of 90 days to lapse before terminating an insurance agency license or an insurance consultant license for a corporation or limited liability company that has had its charter or certificate of authority revoked by the Clerk of the SCC. This grace period would allow a corporation or limited liability company sufficient time to have its charter or articles of incorporation reinstated without losing its licenses to do business as an insurance agency.

An amendment to § 38.2-1838 and a new subsection E in § 38.2-1869 modify the continuing education requirements for those holding insurance consultant licenses.

An amendment to § 38.2-1841 makes the due date for the renewal fee consistent with the present expiration date of the license for an insurance consultant.

An amendment to § 38.2-1871 B 3 clarifies that any agent seeking a permanent exemption from continuing education requirements must file a request to be granted such an exemption in the form and manner required by the Continuing Education Board. Such a permanent exemption is currently available to agents having reached the age of 65 and having been continuously licensed for at least 20 years; however, agents must submit a request for such an exemption.

LIFE AND HEALTH BILLS

Chapter 28 (Senate Bill 955)

The bill amends § 38.2-109 in the General Provisions Chapter of Title 38.2 by adding a subsection B. The bill expands the definition of "accident and sickness insurance" to include agreements insuring against losses resulting from health care claims or expenses in excess of a specific or aggregate dollar amount when such agreements are used to provide coverage to (i) an employee welfare benefit plan or any other plan providing accident and sickness benefits; (ii) health maintenance organizations (HMOs); or (iii) providers associated with a managed care network. Additional requirements for agreements to be included in the definition are that (i) the agreement clearly indicates the liability assumed by the insurer; and (ii) the insurer maintains reserves according to § 38.2-1314 for liability under the agreement.

The agreements are not subject to the requirements of Chapters 34 and 35 of Title 38.2.

Chapter 56 (Senate Bill 919)

This bill amends § 38.2-3407.3 in the Accident and Sickness Insurance Provisions Chapter. The bill revises the calculation of cost-sharing provisions section. The amended subsection A requires insurers to calculate copayments payable by insureds "based upon an amount not to exceed the total amount actually paid or payable to the provider of such services provided to the insured, subscriber or enrollee."

Chapter 139 (House Bill 2062)

This bill amends the Health Maintenance Organizations (HMO) Chapter of Title 38.2 by adding a § 38.2-4312.3. The new section requires each HMO to have a system that provides on a 24-hour basis (i) access to medical care; or (ii) access by telephone to a physician or licensed health care professional that can refer a member for prompt medical care where there is an immediate, urgent need or medical emergency.

Access to a non-medical professional who responds to calls from members and providers regarding after-hours care and covered benefits is not considered sufficient to meet the above requirement.

The bill requires an HMO to reimburse a hospital emergency facility and provider for "medical screening and stabilization services" rendered to meet the requirements of the Federal Emergency Medical Treatment and Active Labor Act (42 U.S.C. § 1395 dd) and related to the condition that the member presented in the facility if one of two conditions is met. The first condition is that the HMO, or its designee, or the member's primary care physician (PCP) or its designee, authorized, directed or referred a member to use the hospital emergency facility. The alternate condition is that the HMO fails to have a system for provision of 24-hour access according to the requirements in subsection A of this bill. A PCP may include a physician providing on call back-up coverage for the PCP.

The bill also requires HMOs to include in each evidence of coverage a description of procedures to be followed for

emergency services. The required description must address (i) appropriate use of hospital emergency facilities; (ii) appropriate use of urgent care facilities that the HMO has contracted with; (iii) the potential responsibility of the member for payment of non-emergency services rendered in a hospital emergency facility; and (iv) covered benefits including an explanation of the prudent layperson standard pursuant to the definition of emergency services in § 38.2-4300.

Chapter 203 (House Bill 1360)

This bill amends §§ 38.2-3408 and 38.2-4221 in the Accident and Sickness Provisions and the Health Services Plans chapters of Title 38.2 by adding "certified nurse midwife" to the list of providers that are mandated to receive direct reimbursement.

Chapter 290 (House Bill 2647)

This bill adds § 38.2-613.01 to the Insurance Information and Privacy Protection Chapter of Title 38.2. The bill provides that pursuant to §§ 38.2-223 and 38.2-3100.1, the SCC shall promulgate regulations necessary to ensure that applicants for life or accident and sickness coverage or changes to existing coverage are notified of HIV test results.

NOTE: The Bureau of Insurance believes that the Commission's existing "Rules Governing Underwriting Practices and Coverage Limitations and Exclusions for Acquired Immunodeficiency Syndrome" (14 VAC 5-180 et seq.) already address this requirement.

Chapter 291 (House Bill 2747)

This bill amends § 38.2-3514.1 in the Individual Accident and Sickness Policies Chapter of Title 38.2. The bill adds disability income policies to the types of contracts that are not subject to the 12-month preexisting conditions limit and the requirement that policies provide a credit towards the preexisting conditions period for the time that the person was covered under previous individual or group coverage.

Chapter 297 (House Bill 2870)

This bill expands § 38.2-4312 to prohibit an HMO from referring an enrollee who is a resident of a continuing care facility to a nursing home outside the continuing care facility unless the primary care physician determines that it is in the best interests of the patient.

A second clause prohibits referrals outside the continuing care facility if the facility's nursing home agrees to accept reimbursement at the rate applicable to such coverage under the enrollee's plan.

Chapter 415 (House Bill 2786)

This bill amends § 9-298 (Commissions, Boards and Institutions), relating to the duties of the Special Advisory Commission on Mandated Health Insurance Benefits (Advisory Commission). The Advisory Commission is given the responsibility to review and evaluate the benefits and other provisions of the Essential and Standard health benefit

plans established pursuant to § 38.2-3431 in the Small Employer Market Provisions article of Title 38.2. The Advisory Commission shall submit its recommendations for any modifications needed to maintain or enhance the affordability and marketability of the Essential and Standard plans to the SCC for adoption by regulation.

The bill also adds Medicaid coverage to the list of coverages not included in the term "health benefit plan." Individuals who have premium payments made by Medicaid are added to the list of those exempt from late enrollee exclusions.

The bill also requires that all Essential and Standard plans delivered, issued for delivery, reissued, renewed or extended in Virginia on or after July 1, 1997 must include coverage for 365 days of inpatient hospitalization in a 12-month period. If coverage under the Essential or Standard plan terminates while the person is hospitalized, the benefits must continue to be provided until the earliest of (i) the day the maximum amount of benefit has been provided; or (ii) the day the covered person is no longer hospitalized.

NOTE: The provision noted above requiring 365 days of coverage of inpatient hospitalization in a 12-month period, which becomes effective July 1, 1997, will supersede the relevant provisions of the SCC's Rules Governing Essential and Standard Health Benefit Plan Contracts (14 VAC 5-234-10 et seq.) regarding inpatient hospitalization which are found at 14 VAC 5-234-50 (1) for Essential plans and 14 VAC 5-234-60 (1) for Standard plans. These rules will be revised after the Advisory Commission has developed its recommendations for the Essential and Standard plans.

Chapter 531 (Senate Bill 1123)

This bill amends § 38.2-322 by adding a new subsection E. It prohibits carriers from requiring providers to utilize CPT codes and appropriate modifiers in submitting claims unless the carriers are capable of accepting and utilizing those codes and modifiers in processing the claims.

Chapter 656 (Senate Bill 1164)

This bill amends § 2.1-20.1 (Health) relating to health coverage for state employees (not relevant) and also § 38.2-3407.5 in the Accident and Sickness Provisions Chapter of Title 38.2.

The bill prohibits the denial of coverage for any drug prescribed to treat a covered indication as long as the drug has been approved by the U.S. Food and Drug Administration (FDA) for at least one indication, and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or substantially accepted peer-reviewed medical literature. This provision also applies to hospital, medical and surgical or major medical coverage on an expense incurred basis, subscription contracts and HMO health care plans that include coverage for prescription drugs.

The bill revises current subsection C in § 38.2-3407.5 to provide that companies are not required to cover indications

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for which a drug has been determined by the FDA to be contraindicated.

The bill defines the terms "peer-reviewed medical literature" and "standard reference compendia." The bill applies to contracts, policies or plans delivered, issued for delivery or renewed in the Commonwealth on and after July 1, 1997.

Chapter 688 (House Bill 2785)

This bill adds § 32.1-122.10:01 (Health) and revises §§ 38.2-305, 38.2-4214, 38.2-4308, 38.2-4315 and 38.2-4319 of Title 38.2.

The bill provides that the Commonwealth's Health Commissioner shall examine the quality of health care services of any health maintenance organization (HMO) licensed in Virginia and the providers with which the HMOs contract or have agreements or arrangements. The Health Commissioner may examine an HMO as often as necessary. The examination may include a review of records, the taking of affidavits, and the interview of officers and agents of the HMO and principals of the providers. The expenses of the examination are to be assessed against the HMO. The Health Commissioner is to consult with HMOs and providers in carrying out these responsibilities.

The bill allows the Health Commissioner to consider the report of an insurance official, regulatory agency, accrediting organization or health commissioner of another state for a foreign HMO. The Health Commissioner is to (i) consult with HMOs in the establishment of their complaint systems; (ii) analyze HMO complaint records; and (iii) assist the SCC in examining the complaint systems. The Health Commissioner is to coordinate the activities under § 32.1-122.10:01 with the SCC to ensure appropriate oversight and to avoid undue duplication of effort or regulation.

Section 38.2-305 is revised to include new or renewal certificates or evidences of coverage to enrollees in the requirement of a notice regarding contacting the Bureau of Insurance regarding complaints.

NOTE: The above referenced notice to accompany an insurance policy, which is required pursuant to § 38.2-305, is not considered part of the policy or contract. Therefore, such notices do not need to be filed for approval with the Bureau of Insurance. This Bureau of Insurance policy regarding notices that accompany policies was established pursuant to Administrative Letter 1988-10, which, as clarified in Administrative Letter 1988-11, did not at that time apply to health maintenance organizations (HMOs) or health services plans (HSPs). The amendments to § 38.2-305 specify that the requirements regarding notices to accompany policies will henceforth apply to HMOs and HSPs, and the Bureau of Insurance will monitor compliance with these requirements through market conduct examinations and consumer complaint reviews.

So that all companies have standard guidelines, the following address and telephone numbers for the Bureau of Insurance should be used, depending on the type of policy or contract issued:

Life and Health Division Bureau of Insurance P.O. Box 1157 Richmond, Virginia 23218 Telephone: (804) 371-9691 Fax: (804) 371-9944
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Property and Casualty Division Bureau of Insurance P. O. Box 1157 Richmond, Virginia 23218 Telephone: (804) 371-9185 Fax: (804)371-9396
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Toll-free calls: 1-800-552-7945 (in-state only)

Section 38.2-4308 is revised to clarify that the SCC, in cooperation with the Health Commissioner, shall examine HMO complaint systems. The section also provides that the SCC may accept the report of the examination of the Health Commissioner instead of making its own examination. Section 38.2-4315 is revised to delete current subsections B, C and D, and to add language requiring the SCC to coordinate its exams with the Health Commissioner to ensure an appropriate level of regulatory oversight and avoid undue duplication of effort and regulation.

Additional enactment clauses require the Health Commissioner in cooperation with the Bureau of Insurance, the Department of Health Professions, and other state agencies to study quality of care mechanisms in place for HMOs and providers. The study is to assess the sufficiency of the quality of care mechanisms and whether these mechanisms should be expanded to other entities; and also to examine how the Department of Health and the Bureau of Insurance can coordinate their roles. Changes to existing laws or regulations regarding complaints and the need for a mechanism to adjudicate controversies will also be considered as part of the study.

The Health Commissioner is requested to submit a report to the Governor and Joint Commission on Health Care (JCHC) by October 1, 1997. The report is to (i) recommend the appropriate role of the Commonwealth in monitoring and improving the quality in managed care plans which require or create incentives for covered persons to use health care providers employed by or under contract to the health carrier; (ii) address the Commonwealth's role in providing consumer information on managed care issues; (iii) assess the current licensing functions for individuals and institutional health care providers and whether modifications or consolidation would enhance Virginia's efforts in overseeing quality of managed care plans; and (iv) evaluate the need to establish an external appeals or ombudsman process for resolving consumer complaints and determine which entity should administer the process.

The Department of Health is also to receive and respond to complaints from enrollees in managed health care plans regarding quality of care issues, and the Bureau of Insurance is to forward to the Department the complaints it receives from entities under its consumer complaint program.

Chapter 748 (House Bill 1233)

This bill adds § 38.2-3407.5:1 to the Accident and Sickness Provisions Chapter of Title 38.2. The bill requires that insurers proposing to issue individual or group accident and sickness policies providing hospital, medical and surgical or

major medical coverage on an expense incurred basis; corporations providing individual or group accident and sickness subscription contracts; and Health Maintenance Organizations (HMO) providing a health care plan for health care services, and whose policy, contract or plan covers outpatient prescription drugs, shall offer and make available coverage for any prescribed drug or device approved by the U.S. Food and Drug Administration (FDA) for use as a contraceptive.

The bill provides that no insurer, corporation or HMO shall impose upon any person receiving prescription contraceptive benefits pursuant to this section any (i) copayment or fee that is not equally imposed upon all individuals in the same benefit category, class or copayment level receiving benefits for prescription drugs; or (ii) reduction in allowable reimbursement for prescription drug benefits.

The bill provides that the language is not to be construed to (i) require coverage for prescription drugs in any contract, policy or plan that does not provide prescription coverage; (ii) preclude the use of closed formularies, provided that such formularies include oral, implant and injectable contraceptive drugs, intrauterine devices and prescription barrier methods; or (iii) require coverage for experimental contraceptive drugs not approved by the FDA. The bill does not apply to short-term travel, accident-only or short-term nonrenewable policies covering six months or less.

The bill becomes effective for contracts, policies, or plans delivered or issued for delivery or renewal in Virginia on or after July 1, 1997.

Chapter 814 (House Bill 871)

This bill amends Title 38.2 to add a new Chapter 57 (§§ 38.2-5700 through 38.2-5707) relating to Viatical Settlements of Title 38.2. The bill authorizes the SCC to require any person engaging in the business of viatical settlement brokering or acting as a viatical settlement provider to be licensed by the SCC and to pay a licensing fee.

The bill defines "viatical settlement" as meaning compensation or other valuable consideration paid to the viator in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of a life insurance policy or certificate to the viatical settlement provider which compensation or other valuable consideration is less than the expected death benefit of the life insurance policy or certificate.

The bill also defines the terms "viatical settlement broker," "viatical settlement contract," "viatical settlement provider," "viaticated policy" and "viator."

The bill allows the SCC, on and after January 1, 1998, to require the licensing of viatical settlement brokers and viatical settlement providers, and to require the payment of a nonrefundable application fee.

The bill authorizes the SCC to require the renewal of these licenses, and to determine the frequency of such renewal requirements and the payment of renewal fees. The SCC is

also authorized to investigate applicants, as it may deem appropriate, in order to determine whether a license should be issued.

The bill sets forth the circumstances in which the SCC may suspend, revoke, or refuse to issue a new license. The SCC shall also require that viatical settlement providers be bonded.

SCC approval is required for viatical settlement contract forms used on and after January 1, 1998.

The SCC shall have the right to examine and investigate the business affairs of any licensed viatical settlement provider or broker, or applicant for a viatical settlement provider or broker license, engaged or alleged to be engaged in the business of viatical settlements.

The bill also sets forth disclosure requirements of viatical settlement providers, informed consent, and unconditional refund provisions.

The SCC may:

1. Establish standards for evaluating reasonableness of payments under viatical settlement contracts. This authority includes, but is not limited to, regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise or bequest of a benefit under a life insurance policy; and
2. Set the amount of any bond required for viatical settlement providers.

The bill prohibits licensed insurers from "transacting the business of a viatical settlement provider."

Chapters 807 and 913 (Senate Bill 1112 and House Bill 2887)

These companion bills amend §§ 38.2-3431, 38.2-3433 38.2-4214, 38.2-4216.1, 38.2-4217, 38.2-4229.1, 38.2-4306, 38.2-4319 and 58.1-2501 and add §§ 38.2-3430.1 through 38.2-3430.10, 38.2-3432.1 through 38.2-3432.3, 38.2-3434 through 38.2-3437, 38.2-4322 and 38.2-4323. The bills also repeal § 38.2-3432. The bills contain the provisions necessary to comply with the federal Health Insurance Portability and Accountability Act (HIPAA) recently passed by Congress.

The bills include requirements in the individual health insurance market that eligible individuals have guaranteed availability. All eligible individuals, as defined in the bills, must be provided a choice of all the individual coverage being offered by a health insurance issuer. The term "health insurance issuer" is also defined in the bills. The bills prohibit the use of a conditions exclusion for the eligible individuals as well as the exclusion or limitation of named conditions.

Requirements for guaranteed renewability are also included as well as requirements for the issuance of certifications.

Section 38.2-3430.9 provides that the SCC may adopt regulations to establish and administer standards of the chapter that are necessary to implement the article and

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assure that Virginia's regulation of health insurance issuers is not preempted by HIPAA. The bills also allow the Commission to revise or amend the regulations and increase the scope of the regulations to maintain federal approval.

The new article will define the following terms: "affiliation period," "beneficiary," "bona fide association," "certification," "church plan," "COBRA continuation provision," "creditable coverage," "eligible individual," "employee," "employer," "enrollment date," "excepted benefits," "federal government," "governmental plan," "group health insurance coverage," "group health plan," "health insurance coverage," "health insurance issuer," "health maintenance organization," "health status-related factor," "individual health insurance coverage," "individual market," "large employer," "large group market," "medical care," "network plan," "nonfederal governmental plan," "participant," "placed for adoption," "plan sponsor," "preexisting condition exclusion," "small employer," "small group market," "state" and "waiting period."

The new statute also requires guaranteed renewability and the offer of all contracts sold in the small group markets to all small groups. Group coverage must be offered and made available to all of the eligible employees of a small employer and their dependents. No coverage can be offered to only certain employees and their dependents, and no employees or their dependents can be excluded or charged additional premiums because of health status.

Preexisting conditions periods are limited to 12 months (18 months for a late enrollee) with a 6-month look-back provision. The preexisting conditions period must be reduced by the aggregate periods of creditable coverage. No preexisting exclusions can be applied for pregnancy; in addition, no preexisting exclusions can be applied for newborns or adopted children covered within 30 days.

Requirements are included for certification of coverage.

The Essential and Standard plans must be subject to modified community rating when sold in the small group market. Rating factors for claim experience, health status and duration of coverage may deviate only plus or minus 20% from the community rate.

Requirements are included for disclosure of information to employers and eligibility to enroll. The new statute does not apply to (i) groups with less than two participants who are current employees on the first day of the plan year; (ii) any nonfederal governmental plan that elects not to be bound by the requirement; or (iii) any group health plan and health insurance issuer for excepted benefits.

The bills also amend §§ 38.2-4214, 38.2-4216.1, 38.2-4217, and 38.2-4229.1 in the Health Services Plans Chapter of Title 38.2 to revise the definition of open enrollment contracts to delete groups with less than 50 members. The tax rate for small group contracts is also revised in the chapter to 2.25%. Section 58.1-2501 is also revised to include the 2.25% tax rate for small group and .75% for individual contracts.

Sections 38.2-4306 and 38.2-4319 are revised to make the provisions in Chapter 34 (Provisions Relating to Accident and

Sickness Insurance) of Title 38.2 apply to HMOs. Sections 38.2-4322 and 38.2-4323 are added to include provisions for affiliation periods and alternative methods to affiliation periods.

A second enactment clause requires the Bureau of Insurance to monitor the impact of the bill on health insurance in Virginia. The Joint Commission on Health Care is to cooperate with the Bureau of Insurance. Any revisions, corrections or improvements that require additional legislation are to be recommended by the Bureau of Insurance to the Governor and the 1988 Virginia General Assembly.

FINANCIAL REGULATION BILLS

Chapter 160 (House Bill 2327)

This bill amends provisions in §§ 38.2-1611.1, 38.2-1709 and 38.2-2806 pertaining to the availability and use of tax credits for assessments paid by an insurer to the Virginia Property and Casualty Insurance Guaranty Association; the Virginia Life, Accident and Sickness Insurance Guaranty Association; and the medical malpractice joint underwriting association established pursuant to the provisions of Chapter 28 (Medical Malpractice Joint Underwriting Association) of Title 38.2.

Sections 38.2-1611.1 and 38.2-1709 are amended to allow insurers to amortize contributions made to an association after January 1, 1998 in equal amounts over the 10 years following payment. An insurer with an unamortized contribution outstanding on January 1, 1998 has the option of continuing with the original amortization schedule or amortizing the remainder in equal amounts over a 10-year period beginning January 1, 1998. The insurer must notify the SCC of the desired option on or before March 1, 1998. Insurers failing to so notify the SCC shall be deemed to have selected to continue amortization under the original schedule.

No phase-in is necessary for the credits recognized following payment of medical malpractice joint assessments by members of the association. The amendment to § 38.2-2806 provides that the amount of premium tax deduction for each member's share shall be apportioned by the SCC so that the amount of each member's premium tax deduction in each of the 10 calendar years following payment of the member's assessment is equal to 10% of the assessment paid by the member.

Chapter 414 (House Bill 2784 and Senate Bill 1102)

This bill amends § 38.2-226.1 and enacts § 32.1-330.3 (Health) to address the operation of pre-PACE plans and to establish more clearly the regulatory oversight of such plans by the Department of Medical Assistance Services (DMAS). PACE is an acronym for the Program of All-Inclusive Care for the Elderly (PACE). Legislation enacted in 1996 exempted such plans from regulation by the Bureau of Insurance if a signed agreement with DMAS existed.

The new provisions in Title 32.1 use language from Title 38.2 to provide a clear definition for pre-PACE plans; to address certain contract requirements; and to establish essential solvency requirements.

Subsection E of § 32.1-330.3 establishes special solvency and disclosure requirements for plans with "private pay individuals."

Subsection G of § 32.1-330.3 establishes a Transitional Advisory Group to determine license requirements, regulations and ongoing oversight. The Transitional Advisory Group is to include representatives from seven state agencies, including DMAS and the Bureau of Insurance, and a pre-PACE provider.

Chapter 615 (House Bill 2335)

The bill enacts a new Chapter 30 in Title 55 (Property and Conveyances) to require all non-profit entities to give written notice to the Attorney General prior to disposing of assets so that the Attorney General may exercise his common law and statutory authority over the activities of these organizations.

The term "non-profit entity" is defined as certain hospitals licensed under the provisions of Title 32.1 (Health) or Title 37.1 (Mental Health); any health services plans licensed under Chapter 42 (Health Services Plans) of Title 38.2; and any health maintenance organization licensed under Chapter 43 (Health Maintenance Organizations) of Title 38.2 which is exempt from taxation under U.S.C. § 501(c)(3).

The term "disposition of assets" is defined as any action undertaken by a nonprofit entity to dispose of control of all or substantially all of its assets pursuant to an agreement of sale, transfer, lease, exchange, option, joint venture or partnership or to restructure the nonprofit entity of its assets which results in a change in control or governance of the entity or assets.

The written notice to the Attorney General must be given on a form provided by the Attorney General 60 days in advance of the effective date of such proposed transaction. The bill also provides that the Attorney General may employ expert assistance in reviewing the proposed transaction at the expense of the regulated party of the transaction.

This bill applies to any disposition of assets to take effect on or after July 1, 1997.

Chapter 917 (Senate Bill 923)

This bill amends § 2.1-563.31 (Administration) and enacts a new Chapter 39 of Title 59.1 (Trade and Commerce) to allow state agencies to recognize and accept digital signatures provided that such digital signatures meet the standards established by the Council on Information Management (Article 7, Chapter 35.1, Title 2.1).

The term "digital signature" is defined in § 59.1-467 as an electronic identifier created by computer which is intended by the party to have the same force and effect as the use of a manual signature.

The Council on Information Management shall adopt regulations on the use of digital signatures on or before September 1, 1998.

Nothing contained in this bill requires any public entity to use or accept digital signatures.

VA.R. Doc. No. R97-560; Filed June 3, 1997, 9:38 a.m.

STATE LOTTERY DEPARTMENT

DIRECTOR'S ORDER NUMBER SIXTEEN (97)

VIRGINIA'S EIGHTIETH INSTANT GAME LOTTERY; "BASEBALL BUCKS," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's eightieth instant game lottery, "Baseball Bucks." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: April 23, 1997

VA.R. Doc. No. R97-547; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER SEVENTEEN (97)

VIRGINIA'S INSTANT GAME LOTTERY 410; "CASINO NIGHTS," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0410), "Casino Nights." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: April 23, 1997

VA.R. Doc. No. R97-548; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER EIGHTEEN (97)

VIRGINIA'S EIGHTY-FIRST INSTANT GAME LOTTERY; "FAT CAT," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's eighty-first instant game lottery, "Fat Cat." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: May 12, 1997

VA.R. Doc. No. R97-549; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER NINETEEN (97)

VIRGINIA'S INSTANT GAME LOTTERY 411; "INSTANT MONOPOLY," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0411), "Instant Monopoly." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: May 12, 1997

VA.R. Doc. No. R97-550; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER TWENTY (97)

VIRGINIA'S INSTANT GAME LOTTERY 412; "\$50,000 SLOTS," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0412), "\$50,000 Slots." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: May 12, 1997

VA.R. Doc. No. R97-551; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER TWENTY-ONE (97)

VIRGINIA'S INSTANT GAME LOTTERY 413; "BATTLESHIP," FINAL RULES FOR GAME OPERATION.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate the final rules for game operation in Virginia's instant game lottery (Number 0413), "Battleship." These rules amplify and conform to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

The rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Division, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle
Director
Date: May 12, 1997

VA.R. Doc. No. R97-552; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER TWENTY-TWO (97)

"THE BIG GAME MYSTERY SHOPPER," VIRGINIA LOTTERY RETAILER PROMOTIONAL PROGRAM RULES.

In accordance with the authority granted by Sections 9-6.14:4.1B(15) and 58.1-4006A of the Code of Virginia, I hereby promulgate "The Big Game Mystery Shopper," the Virginia Lottery Retailer Promotional Program Rules for the lottery retailer incentive program which will be conducted from Friday, May 30, 1997 through Thursday, July 10, 1997. These rules amplify and conform to the duly adopted State Lottery Board regulations.

These rules are available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia, and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect until July 31, 1997, unless otherwise extended by the Director.

/s/ Penelope W. Kyle
Director
Date: May 12, 1997

VA.R. Doc. No. R97-553; Filed May 22, 1997, 10:17 a.m.

DIRECTOR'S ORDER NUMBER TWENTY-THREE (97)

VIRGINIA'S FORTY-SEVENTH INSTANT GAME LOTTERY, "LUCKY FOR LIFE"; END OF GAME.

In accordance with the authority granted by Sections 58.1-4006A and 9-6.14:4.1B(15) of the Code of Virginia, I hereby give notice that Virginia's Forty-Seventh Instant Game, "Lucky for Life" will officially end at midnight on Friday, June 6, 1997. The last day for lottery retailers to return for credit unsold tickets from "Lucky for Life" will be Friday, July 11, 1997. The last day to redeem winning tickets for "Lucky for Life" will be Wednesday, December 3, 1997, 180 days from the declared official end of the game. Claims for winning tickets from "Lucky for Life" will not be accepted after that date. Claims which are mailed and received in an envelope bearing a United States Postal Service postmark of December 3, 1997, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of instant game lotteries.

This order is available for inspection and copying during normal business hours at the State Lottery Department headquarters, 900 East Main Street, Richmond, Virginia; and at each of the State Lottery Department regional offices. A copy may be requested by mail by writing to: Public Affairs Office, State Lottery Department, 900 East Main Street, Richmond, Virginia 23219.

State Lottery Department

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Penelope W. Kyle

Director

Date: May 16, 1997

VA.R. Doc. No. R97-554; Filed May 22, 1997, 10:18 a.m.

MARINE RESOURCES COMMISSION

FINAL REGULATIONS

NOTICE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purpose of promulgating certain regulations. However, the Commission is required to publish the full text of final regulations.

Title of Regulation: 4 VAC 20-970-10 et seq. Pertaining to Spadefish.

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: May 30, 1997.

Preamble:

This regulation establishes a possession limit on spadefish harvested by any recreational gear.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

CHAPTER 970. PERTAINING TO SPADEFISH.

4 VAC 20-970-10. Purpose.

The purpose of this chapter is to promote conservation of the spadefish resource and to reduce the possibility of overfishing this resource.

4 VAC 20-970-20. Definitions.

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

"Spadefish" means any fish of the species Chaetodipterus faber.

4 VAC 20-970-30. Spadefish possession limit.

A. It shall be unlawful for any person fishing with hook and line, rod and reel, hand line, spear, gig or other recreational gear to possess more than six spadefish. Any spadefish taken after the possession limit of six fish has been reached shall be returned to the water immediately.

B. When fishing from a boat or vessel where the entire catch is held in a common hold or container, the possession limit shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish multiplied by six. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limit.

4 VAC 20-970-40. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this regulation shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this regulation committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R97-546; Filed May 30, 1997, 4:55 p.m.

Title of Regulation: 4 VAC 20-800-10 et seq. Loading and Unloading Points for Relaying Shellfish (REPEALED).

4 VAC 20-820-10 et seq. Unloading Points for Relaying Shellfish (REPEALED).

4 VAC 20-840-10 et seq. Unloading Points for Relaying Shellfish (REPEALED).

4 VAC 20-870-10 et seq. Unloading Points for Relaying Shellfish (REPEALED).

4 VAC 20-980-10 et seq. Pertaining to On-Shore Loading and Unloading of Shellfish from Condemned Areas.

Statutory Authority: §§ 28.2-201 and 28.2-819 of the Code of Virginia.

Effective Date: May 30, 1997.

Preamble:

This regulation establishes locations for the on-shore loading and unloading of shellfish taken from condemned areas. This chapter rescinds Order Number 83-4 which was adopted and made effective April 19, 1983. This chapter rescinds Order Number 84-5 which was adopted May 22, 1984, and effective May 23, 1994. This chapter rescinds chapter 4 VAC 20-800-10 et seq., which was adopted and effective August 26, 1996. This chapter rescinds chapter 4 VAC 20-820-10 et seq. which was adopted May 5, 1987, and effective May 6, 1987. This chapter rescinds chapter 4 VAC 20-840-10 et seq. which was adopted April 5, 1988, and effective May 2, 1988. This chapter rescinds chapter 4 VAC 20-870-10 et seq. which was adopted May 27, 1990, and effective April 1, 1990. This effective date of this regulation is May 30, 1997.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

CHAPTER 980. PERTAINING TO ON-SHORE LOADING AND UNLOADING OF SHELLFISH FROM CONDEMNED AREAS.

4 VAC 20-980-10. Purpose.

The purpose of this chapter is to promote efficiency in the utilization of condemned shellfish resources.

4 VAC 20-980-20. Listing of on-shore loading and unloading locations.

A. The following locations shall be designated for the on-shore loading and unloading of clams taken from condemned areas:

Marine Resources Commission

L. D. Amory, Hampton
101 South King Street
Hampton, VA

F. D. Hunt's Dock
Sunset Creek
Hampton, VA

Jones Marina
519 Bridge Street
Hampton, VA

SeaRich Seafood South
205 Jefferson Avenue
Newport News, VA

Old Point Packing, Inc.
817 Jefferson Avenue
Newport News, VA

Casey Seafood, Inc.
807 Jefferson Avenue
Newport News, VA

Lynnhaven Waterway Marina, Inc.,
2101 Great Neck Road
Virginia Beach, VA

B. It shall be unlawful for any person to load or unload clams taken from condemned areas at any shore-side location that is not specified in subsection A of this section or is not established according to the provisions of 4 VAC 20-980-30.

C. The following locations shall be designated for the on-shore loading and unloading of oysters taken from condemned areas:

Bevans Oyster Company
Route 1
Kinsale, VA

State Public Dock in Perrin
Gloucester, VA

Public Boat Landing, Tylers Beach
Rushmere, VA

Back River Seafood
435 Messick Road
Poquoson, VA

D. It shall be unlawful for any person to load or unload oysters taken from condemned areas at any on-shore location that is not specified in subsection C of this section or is not established according to the provisions of 4 VAC 20-980-30.

4 VAC 20-980-30. Modification of the listing of designated locations.

The Commissioner of Marine Resources or his designee shall be authorized to modify the listing of approved on-shore loading and unloading locations in order to promote efficient utilization of condemned shellfish resources.

4 VAC 20-980-40. Penalty.

As set forth in § 28.2-903 of the Code of Virginia, any person violating any provision of this chapter shall be guilty of a Class 3 misdemeanor, and a second or subsequent violation of any provision of this chapter committed by the same person within 12 months of a prior violation is a Class 1 misdemeanor.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R97-545; Filed May 30, 1997, 4:55 p.m.

EMERGENCY REGULATION

Title of Regulation: 4 VAC 20-600-10 et seq. Pertaining to Pound Net License Sales (amending 4 VAC 20-600-10 and 4 VAC 20-600-30).

Statutory Authority: §§ 28.2-201, 28.2-204.1 and 28.2-210 of the Code of Virginia.

Effective Date: May 28, 1997, through June 27, 1997.

Preamble:

This emergency regulation limits the sale of pound net licenses for any calendar year to the number of pound nets licensed during calendar year 1994.

Agency Contact: Copies of the regulation may be obtained from Deborah Cawthon, Regulatory Coordinator, Marine Resources Commission, P.O. Box 756, Newport News, VA 23607, telephone (757) 247-2248.

4 VAC 20-600-10. Purpose.

The purpose of this chapter emergency regulation is to limit the number of pound net licenses for any calendar year to the number of pound net licenses sold on or after January 1, 1994, and through August 5, 1994. This chapter is part of recent restrictions adopted by the Marine Resources Commission in order to reduce the weakfish fishing mortality rate and to be consistent with federal and interstate management measures.

4 VAC 20-600-30. Limit on sale of licenses.

A. Except as provided in 4 VAC 20-600-40, the total number of pound net licenses issued for ~~1996~~ any calendar year shall be limited to the number of pound net licenses sold on or before August 5, 1994, for calendar year 1994. No additional pound net licenses shall be sold for any calendar year ~~1996~~.

B. All eligible license renewals by those licensees who meet the requirements of subsection A of this section, applications for vacant locations, if available, and requests for transfer of license shall be made in accordance with 4 VAC 20-20-10 et seq.

/s/ William A. Pruitt
Commissioner

VA.R. Doc. No. R97-544; Filed May 30, 1997, 4:55 p.m.

FORMS

STATE WATER CONTROL BOARD

EDITOR'S NOTICE: The following form has been issued by the State Water Control Board. Due to its length, the form is not being published; however, copies of the form may be obtained from Cindy Berndt, Department of Environmental Quality, 629 East Main Street, Richmond, VA 23219, telephone (804) 698-4378.

Title of Regulation: 9 VAC 25-31-10 et seq. VPDES Permit Regulation.

VPDES Sewage Sludge Permit Application Form with instructions, 1997.

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 ENVIRONMENTAL QUALITY

† One Year Delay of Clean Fuel Fleet Program Requirements

Based on a determination by the U.S. EPA that an insufficient number of certified vehicles is available for sale, the Department of Environmental Quality (DEQ) is hereby announcing a one year delay of implementation of the Clean Fuel Fleet Program required by § 241 of the Clean Air Act and by regulation of the State Air Pollution Control Board, 9 VAC 5 Chapter 120, pursuant to authority provided by Article 3 of Chapter 6 of Title 46.2 of the Code of Virginia. The implementation delay is from the 1998 vehicle model year to the 1999 vehicle model year.

The regulation requires fleets of 10 or more vehicles that are centrally fueled, or capable of being centrally fueled, to include in their fleet vehicle purchases a certain percentage of vehicles meeting specific, cleaner exhaust emissions standards. The program was scheduled to begin in September 1997 with the introduction of the 1998 model year vehicles. The program is now scheduled to begin in September 1998 with the introduction of the 1999 model year vehicles unless vehicle availability negatively affects implementation again.

The regulation states, at 9 VAC 5-120-140 B and 9 VAC 5-120-150 C, that, "If vehicles meeting the emission standards set forth...are not offered for sale in the State of California and sold or otherwise available commercially in the Commonwealth of Virginia as of model year 1998, then the beginning of the purchase requirements set forth...shall be delayed until the first model year in which such vehicles are offered for sale in the State of California and sold or otherwise available commercially in the Commonwealth of Virginia."

The offer for sale of vehicles meeting these emission standards is solely at the discretion of motor vehicle manufacturers. Further, the vehicles must be certified by the manufacturer to operate, and be operated exclusively, on a specific motor fuel. The Environmental Protection Agency (EPA) has made a determination that such vehicles have not and will not be certified by manufacturers this year in numbers sufficient to ensure a smooth, cost-effective implementation of the program and has therefore authorized the delay in a May 22, 1997, memorandum from Margo T. Oge, Director, EPA Office of Mobile Sources. A meeting of state, federal and manufacturer representatives will be held

this summer to discuss the delay and future program implementation issues. Manufacturers have expressed concern about the cost of building and certifying vehicles to meet cleaner exhaust emission standards for the small number of geographic areas intending to implement the program. Thus far, only a limited number of vehicles available outside California, operating exclusively on compressed natural gas (CNG) or on electricity, have been certified by manufacturers to meet the standards.

Fleets having made or planned purchases in order to conform to the regulation requirements will accrue credits toward program requirements according to guidelines to be developed later this year by DEQ. Further announcements regarding program implementation and credit guidelines will appear in the Virginia Register later this calendar year.

Questions and comments regarding the program and the delay may be directed to David J. Kinsey, Environmental Program Manager, Department of Environmental Quality, Office of Nonattainment and Mobile Source Planning, 629 East Main Street, Richmond, Virginia 23219; telephone (804) 698-4432, facsimile (804) 698-4510, or by e-mail to djkinsey@deq.state.va.us.

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.

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.

DEPARTMENT OF TRANSPORTATION

† Delegation of Authority to Approve Vegetation Permits Subject to VDOT's Vegetation Control Regulations

By virtue of the Vegetation Control Regulations, 24 VAC 30-200-10 et seq., and the position of the Construction District Administrator as the chief authority for administration within each of the Commonwealth's nine construction districts, Construction District Administrators are authorized to approve the issuance of Vegetation Control Permits. By publication of this notice, Construction District Administrators hereby delegate and designate the Transportation Roadside Development Managers in their respective construction districts (Bristol, Salem, Staunton, Lynchburg, Northern Virginia, Culpeper, Richmond, Fredericksburg, and Suffolk) to issue permits authorized under 24 VAC 30-200-30 A (Special Provisions) of the Vegetation Control Regulations, on their behalf.

As part of this delegation of authority, the Transportation Roadside Development Managers shall provide the Construction District Administrators with monthly reports of all permit activity to ensure that the regulations are followed.

STATE WATER CONTROL BOARD

Enforcement Action Proposed Consent Special Order Town of Alberta

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.

General Notices/Errata

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 Amendment Augusta County School Board

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.

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 Charlotte County School Board

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 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.

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 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 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.

General Notices/Errata

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 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.

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

STATE AIR POLLUTION CONTROL BOARD

Title of Regulation: 9 VAC 5-40-10 et seq. Existing Stationary Sources.

Publication: 13:18 VA.R. 2128-2151 May 26, 1997.

Correction to Final Regulation:

Page 2130, 9 VAC 5-20-130 C 1 f, line 3, delete "it" insert "the policy or procedure"

Page 2131, 9 VAC 5-20-200, column 2, under Region 2, delete all dagger symbols and daggered note

Page 2142, 9 VAC 5-40-311 C 1 a, line 1, after "heaters." insert "The following allowable emission rate for nitrogen oxides from steam generating units and process heaters is as follows:"

Page 2143, 9 VAC 5-40-311 C 3 d, line 2, after "power." begin new paragraph and insert "e. Any incinerator with a maximum capacity of less than 50 tons of waste per day."

Page 2143, 9 VAC 5-40-311 C 3 e, line 1, delete "e." and insert "f."

Page 2143, 9 VAC 5-40-311 C 3 f, line 1, delete "f." and insert "g."

DEPARTMENT OF GAME AND INLAND FISHERIES

Title of Regulation: 4 VAC 15-40-10 et seq. Game: In General (repealing 4 VAC 15-40-10, 4 VAC 15-40-90, and 4 VAC 15-40-180).

General Notices/Errata

4 VAC 15-60-10 et seq. Game: Beaver (amending 4 VAC 15-60-10).

4 VAC 15-90-10 et seq. Game: Deer (repealing 4 VAC 15-90-50 and 4 VAC 15-90-270).

4 VAC 15-110-10 et seq. Game: Fox (amending 4 VAC 15-110-80).

4 VAC 15-130-10 et seq. Game: Mink (repealing 4 VAC 15-130-10).

4 VAC 15-140-10 et seq. Game: Muskrat (repealing 4 VAC 15-140-10).

4 VAC 15-150-10 et seq. Game: Nutria (repealing 4 VAC 15-150-10 and 4 VAC 15-150-20).

4 VAC 15-170-10 et seq. Game: Otter (repealing 4 VAC 15-170-10).

4 VAC 15-200-10 et seq. Game: Rabbits and Hares (repealing 4 VAC 15-200-40).

4 VAC 15-230-10 et seq. Game: Squirrel (repealing 4 VAC 15-230-80).

4 VAC 15-250-10 et seq. Game: Falconry (amending 4 VAC 15-250-50, 4 VAC 15-250-70, and 4 VAC 15-250-110).

4 VAC 15-290-10 et seq. Game: Permits (amending 4 VAC 15-290-30 and 4 VAC 15-290-40; repealing 4 VAC 15-290-10, 4 VAC 15-290-90 and 4 VAC 15-290-100).

4 VAC 15-300-10 et seq. Game: Weasel (amending 4 VAC 15-300-10; repealing 4 VAC 15-300-20 and 4 VAC 15-300-30).

Publication: 13:18 VA.R. 2182-2186 May 26, 1997.

Correction to Final Regulation:

Page 2183, column 1, the "Notice to the Public," which described the proposed amendments to the Board of Game and Inland Fisheries regulations, was inadvertently printed with the final regulations. The effective date of these final regulations is correctly stated as July 1, 1997.

VIRGINIA WASTE MANAGEMENT BOARD

Title of Regulation: 9 VAC 20-70-10 et seq. Financial Assurance Regulations for Solid Waste Facilities.

Publication: 13:15 VA.R. 1699-1736 April 14, 1997.

Correction to Proposed Regulation:

Page 1722, column 2, Article 7, renumber "9 VAC 20-70-270. Discounting" to "9 VAC 20-70-280. Discounting."

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

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 ☎

GOVERNOR'S ADVISORY BOARD ON AGING

† **August 18, 1997 - 5 p.m.** -- Open Meeting

† **August 19, 1997 - 8 a.m.** -- Open Meeting

Department for the Aging, 700 East Franklin Street, 10th Floor, Richmond, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting to discuss potential regulatory revisions and conduct other board business.

Contact: Kimlah Hyatt, Staff to the Board, Department for the Aging, 700 E. Franklin St., 10th Floor, Richmond, VA 23219-2327, telephone (804) 225-2801, FAX (804) 371-8381, toll-free 1-800-552-3402, or (804) 225-2271/TDD ☎

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Board of Agriculture and Consumer Services

† **July 10, 1997 - 8 a.m.** -- Open Meeting

Blacksburg Marriott, 900 Prices Fork Road, N.W., Blacksburg, Virginia.♿ (Interpreter for the deaf provided upon request)

A meeting of the board to discuss regulations and to consider other matters relating to its responsibilities. As the first item of business, the board will entertain public comment for a period not to exceed 15 minutes. Any person who needs any accommodations in order to participate at the meeting should contact Roy Seward at least five days before the meeting date so that suitable arrangements can be made.

Calendar of Events

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, Richmond, VA 23219, telephone (804) 786-3535.

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 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.

Plasticulture Task Force

† August 12, 1997 - 7 p.m. -- Open Meeting
Eastern Shore Agricultural Research Station, 33446 Research Road, Painter, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting pursuant to House Resolution 40 of the 1997 General Assembly regarding water quality management measures utilized in the practice of plasticulture. Brief public comment will be received at the beginning of the meeting. Persons desiring to participate at the meeting

and requiring special accommodations or interpreter services should contact the task force at least two weeks prior to the meeting so that suitable arrangements can be made. Written comments may be submitted to the task force prior to August 12, 1997, at the address below.

Contact: Perida Giles, Policy Analyst, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 209, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-5175 or (804) 371-6344/TDD ☎.

Virginia Pork Industry Board

† July 11, 1997 - 3:30 p.m. -- Open Meeting
Clarion Hotel, 22727 Ferndale Drive, Roanoke, Virginia. ☎

A quarterly meeting of the board to (i) approve minutes of the prior meeting, (ii) approve the fiscal year budget and projects, and (iii) elect officers. 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 John H. Parker at least five days before the meeting date so that suitable arrangements can be made.

Contact: John H. Parker, Executive Director, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 1012, Richmond, VA 23219, telephone (804) 787-7092 or FAX (804) 371-7786.

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 Soybean Board

† August 8, 1997 - Noon -- Open Meeting
 Duncan Farms, 28322 Holland Lane, New Church, Virginia. ☎

A meeting to discuss checkoff revenues and the financial status of the board following the end of the fiscal year ending June 30, 1997, and to hear reports from the chairman, United Soybean Board representatives and other committee representatives. 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 Phil Hickman at least five days before the meeting date so that suitable arrangements can be made.

Contact: Philip T. Hickman, Program Director, Virginia Soybean Board, 1100 Bank St., Suite 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 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.

Calendar of Events

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.

9 VAC 5-160-50. Establishment of regulations and orders.

9 VAC 5-160-60. Enforcement of regulations and orders.

9 VAC 5-160-70. Hearings and proceedings.

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

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Piedmont Regional Office
Department of Environmental Quality
4900-A Cox Road
Innsbrook Corporate Center
Glen Allen, Virginia
Ph: (804) 527-5020

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 ☎

† August 4, 1997 - 9 a.m. – Public Hearing
Department of Environmental Quality, 629 East Main Street,
First Floor, Training Room, Richmond, Virginia.

August 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 State Air Pollution Control Board intends to amend regulations entitled: **9 VAC 5-20-10 et seq. Regulations for the Control and Abatement of Air Pollution: General Provisions and 9 VAC 5-80-10 et seq. Regulations for the Control and Abatement of Air Pollution: Permits for Stationary Sources (Revision SS)**. The regulation amendments concern provisions covering state operating permits for stationary sources. Permits may be issued under this program at the request of either source owner or board to accomplish a variety of purposes: to designate a source as a synthetic minor, to combine a source's requirements under multiple permits into one permit, to implement emissions trading requirements, to cap the emissions of a source contributing to a violation of any air quality standard, to establish requirements necessary to implement the federal Clean Air Act or the Virginia Air Pollution Control Law. Changes to permits may be accomplished through administrative permit amendments, minor permit amendments, or significant permit amendments. The board may issue a general permit covering a source category containing numerous similar sources that meet certain criteria. New provisions (9 VAC 5-80-800 et seq.) are being proposed to replace existing provisions (9 VAC 5-80-40), which are proposed for repeal.

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

Calendar of Events

West Central Regional Office
Department of Environmental Quality
3019 Peters Creek Road
Roanoke, Virginia
Ph: (540) 562-6700

Lynchburg Satellite Office
Department of Environmental Quality
7705 Timberlake Road
Lynchburg, Virginia
Ph: (804) 582-5120

Valley Regional Office
Department of Environmental Quality
4411 Early Road
Harrisonburg, Virginia 22801
Ph: (540) 574-7800

Fredericksburg Satellite Office
Department of Environmental Quality
300 Central Road, Suite B
Fredericksburg, Virginia
Ph: (540) 899-4600

Northern Regional Office
Department of Environmental Quality
13901 Crown Court
Woodbridge, Virginia
Ph: (703) 583-3800

Piedmont Regional Office
Department of Environmental Quality
4949-A Cox Road
Glen Allen, Virginia
Ph: (804) 527-5020

Tidewater Regional Office
Department of Environmental Quality
5636 Southern Boulevard
Virginia Beach, Virginia
Ph: (757) 518-2000

Statutory Authority: §§ 10.1-1308 and 10.1-1322 of the Code of Virginia.

Public comments may be submitted until 4:30 p.m., Monday, August 25, 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 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.

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 ☎

COMPREHENSIVE SERVICES FOR AT RISK YOUTH AND THEIR FAMILIES

State Management Team

† July 1, 1997 - 9:30 a.m. -- Open Meeting
St. Joseph's Villa, 8000 Brook Road, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to discuss and make recommendations on policies regarding the Comprehensive Services Act.

Contact: Pamela Fitzgerald Cooper, Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23218, telephone (804) 371-2177 or FAX (804) 371-0091.

AUCTIONEERS BOARD

† July 23, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department 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: 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 ☎

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 ☎

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 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 ☎

CHILD DAY-CARE COUNCIL

† July 10, 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
† July 11, 1997 - 10 a.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.

† July 16, 1997 - 1 p.m. – Open Meeting
Hampton Roads PDC Regional Building, 723 Woodlake Drive, Chesapeake, Virginia. ☎ (Interpreter services for the deaf provided upon request)

Actions by the 1997 General Assembly included passage of House Joint Resolution 555 which requests the Department of Conservation and Recreation, in coordination with other state agencies and local stakeholders, perform a study of the effects of nonpoint source (NPS) pollution on the Back Bay, and determine the strategies and costs of implementing measures to improve the water quality of the Back Bay. As one component of the study, the Department of Conservation and Recreation will conduct an open meeting to:

1. Present current understandings about Back Bay NPS pollution problems and their origins;

Calendar of Events

2. Invite public comment (from 2:30 p.m. to 3:30 p.m.—time for individual oral statements may be limited); and
3. Seek recommendations concerning strategies that could be employed to address Back Bay NPS pollution problems.

Written comments will be accepted if received by September 1, 1997. Direct comments to the contact person listed below.

Contact: Mark Meador, Field Operations Coordinator, Department of Conservation and Recreation, Back Bay Study, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3999 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 ☎

Chippokes Plantation Farm Foundation

† **June 26, 1997 - 1:30 p.m. – Open Meeting**
Chippokes Farm and Forestry Museum.☎ (Interpreter for the deaf provided upon request)

A general business meeting of the Board of Trustees.

Contact: Kathy Wright, Executive Secretary, Department of Conservation and Recreation, 203 Governor St., Richmond, VA 23219, telephone (804) 786-7950.

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

† **July 9, 1997 - 9 a.m. -- Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.☎

A regularly scheduled quarterly meeting of the board to address policy and procedural issues, review and render decisions on applications for contractor licenses/certificates, review and render case decisions on matured complaints against licensees/certificants, and other matters requiring board action. 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 Geralde W. Morgan so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Geralde W. Morgan, Senior Administrator, Board for Contractors, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

Tradesman Certification Committee

† **June 24, 1997 - 10 a.m. -- Open Meeting**
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 4 A-B, Richmond, Virginia.☎

A regular quarterly meeting of the committee to consider items of interest relating to the tradesmen section of the Board for Contractors.

Contact: Steven L. Arthur, Administrator, Tradesman Certification Program, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166.

BOARD OF CORRECTIONAL EDUCATION

† **July 23, 1997 - 10 a.m. -- Open Meeting**
Department of Correctional Education, James Monroe Building, 101 North 14th Street, 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 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.

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

† August 13, 1997 - 10 a.m. – Open Meeting
Koger Center, 1602 Rolling Hills Drive, Ratcliffe Building, Suite 203, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular quarterly meeting of the advisory board. Public comment will be received with advance notice.

Contact: Gloria Cathcart, Human Services Program Specialist, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Ratcliffe Bldg., Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9502 (V/TTY) or toll-free 1-800-552-7917 (V/TTY).

BOARD OF DENTISTRY

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

† July 1, 1997 - 7 p.m. – Public Hearing
Goochland General District Courtroom, Goochland Courthouse, Route 6, Goochland, Virginia.

A public hearing to receive testimony concerning air pollution issues associated with the proposed permit to be issued to the Southern Equipment Company, Inc., for the construction and operation of a concrete batch plant. The company is doing business as Ready Mixed Concrete Company and the facility is proposed to be located at the Martin Marietta Anderson Creek Quarry at 1940 Ashland Road in Goochland County.

Contact: Gary Graham, Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Rd., Glen Allen, VA 23060, telephone (804) 725-5144.

† July 17, 1997 - 10 a.m. – Open Meeting
Department of Environmental Quality, 629 East Main Street, Training Room, First Floor, Richmond, Virginia. ☎

A working meeting of the technical advisory committee engaged in the development of a general permit (9 VAC 5-510-10 et seq.) for the nonmetallic mineral mining industry.

Contact: Robert Mann, Director of Air Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4419, FAX (804) 698-4510, toll-free 1-800-592-5482, or (804) 698-4021/TDD ☎

Virginia Ground Water Protection Steering Committee

† July 15, 1997 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, First Floor Conference Room, Richmond, Virginia. ☎

A regularly scheduled meeting. Anyone interested in ground water protection issues is encouraged to attend. To obtain a meeting agenda contact Mary Ann Massie at (804) 698-4042.

Contact: Mary Ann Massie, Environmental Program Planner, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4042 or FAX (804) 698-4032.

Calendar of Events

BOARD OF FORESTRY

† July 21, 1997 - 12:30 p.m. -- Open Meeting
Denny's Restaurant, Best Western, 250 Conieville Boulevard,
Route 11, Mt. Jackson, Virginia. (Interpreter for the deaf
provided upon request)

The board will meet at Neff Lumber Mills in Broadway,
Virginia, for a tour of wood-using industries and urban
interface fire problems in woodland home sites. Please
notify the department with requests for interpreter
services five working days prior to the meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist,
Department of Forestry, P.O. Box 3758, Charlottesville, VA
22903, telephone (804) 977-6555 or (804) 977-6555/TDD

† July 22, 1997 - 8:30 p.m. -- Open Meeting
Denny's Restaurant, Best Western, 250 Conieville Boulevard,
Route 11, Mt. Jackson, Virginia. (Interpreter for the deaf
provided upon request)

A meeting to conduct general business. Please notify
the department with requests for interpreter services five
working days prior to the meeting.

Contact: Barbara A. Worrell, Administrative Staff Specialist,
Department of Forestry, P.O. Box 3758, Charlottesville, VA
22903, telephone (804) 977-6555 or (804) 977-6555/TDD

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

† July 1, 1997 - Noon -- Open Meeting
Richmond Marriott, 500 East Broad Street, Salon G & H,
Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A general board meeting to discuss board business.
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

BOARD OF GAME AND INLAND FISHERIES

† July 8, 1997 - 7 p.m. -- Open Meeting
Department of Game and Inland Fisheries, 4010 West Broad
Street, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A meeting to receive public comments regarding season
lengths and bag limits for the 1997-1998 hunting
seasons for webless migratory game birds (dove, rails,
snipe, and woodcock) and the September Canada goose
season. Wildlife Division staff will present frameworks
provided by the U.S. Fish and Wildlife Service for these
species. Public comments will be solicited in the public
hearing portion of the meeting. A summary of the results

of this public hearing will be presented to the board at its
scheduled July 17-18, 1997, meeting. At the July 17-18
meeting the board will hold another public hearing, after
which it intends to adopt 1997-1998 hunting seasons
and bag limits for webless migratory game birds and the
September Canada goose season.

Contact: Phil Smith, Policy Analyst, Department of Game
and Inland Fisheries, 4010 West Broad St., Richmond, VA
23230, telephone (804) 367-8341 or FAX (804) 367-2427.

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 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 Alleghany 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. The board may also
address, and may propose amendments to, 4 VAC 15-
40-60, Game: In General; Hunting with dogs or
possession of weapons in certain locations during closed
season, as this season pertains to the possessing or
carrying of cased or concealed weapons in the national
forests, on department-owned lands, and on lands
managed by the department under cooperative
agreement, during the closed season. 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.

CHARITABLE GAMING COMMISSION

† **June 24, 1997 - 10 a.m.** -- Open Meeting
 General Assembly Building, 910 Capitol Square, House
 Room D, Richmond, Virginia. ♿

A meeting to review and act on proposed interim regulations.

Contact: Donna Pruden, Administrative Staff Assistant, Charitable Gaming Commission, James Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23219, telephone (804) 786-0238 or FAX (804) 786-1079.

DEPARTMENT OF GENERAL SERVICES

Design-Build/Construction Management Review Board

† **July 18, 1997 - 10 a.m.** -- Open Meeting
 † **August 15, 1997 - 10 a.m.** -- Open Meeting
 The Library of Virginia, 800 East Broad Street, Richmond, Virginia. ♿

A meeting of the board to 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., Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD ♿

STATE HAZARDOUS MATERIALS TRAINING ADVISORY COMMITTEE

† **July 8, 1997 - 10 a.m.** -- Open Meeting
 Department of Emergency Services, 310 Turner Road, Training Room, Richmond, Virginia. ♿

A meeting to discuss curriculum course development and to review existing hazardous materials courses. Individuals with a disability, as defined in the Americans with Disabilities Act, desiring to attend should contact the Department of Emergency Services at (804) 674-2489 10 days prior to the meeting so appropriate accommodations can be provided.

Contact: George B. Gotschalk, Jr., Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001.

DEPARTMENT OF HEALTH (STATE BOARD OF)

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

Biosolids Use Information Committee

† **July 11, 1997 - 1 p.m.** -- Open Meeting
 UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ♿

A meeting to discuss specific concerns relating to the land application and agricultural use of biosolids, including issues related to the final Biosolids Use Regulations recently adopted by the State Board of Health to regulate the land application, marketing, or distribution of biosolids.

Contact: C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

Biosolids Use Regulations Advisory Committee

† **July 11, 1997 - 10 a.m.** -- Open Meeting
 UVA Richmond Center, 7740 Shrader Road, Suite E, Richmond, Virginia. ♿

A meeting to discuss issues concerning the implementation and proposed revisions of the Biosolids Use Regulations involving land application, distribution, or marketing of biosolids.

Contact: C. M. Sawyer, Director, Division of Wastewater Engineering, Department of Health, Office of Water Programs, P.O. Box 2448, Richmond, VA 23218, telephone (804) 786-1755 or FAX (804) 786-5567.

Calendar of Events

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 ☎

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.

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 ☎

STATEWIDE INDEPENDENT LIVING COUNCIL

† July 17, 1997 - 10 a.m. -- Open Meeting
Martha Washington Inn, 150 West Main Street, Abingdon Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to conduct regular business.

Contact: Jim Rothrock, Statewide Independent Living Council Staff, 1802 Marriott Rd., Richmond, VA 23229, telephone (804) 673-0119, FAX (804) 282-7112, toll-free 1-

800-552-5019/TDD and Voice, or (804) 662-9040/TDD ☎, e-mail jarothrock@aol.com

COUNCIL ON INFORMATION MANAGEMENT

† July 18, 1997 - 10 a.m. -- Open Meeting
Council on Information Management, 1100 Bank Street, Suite 901, Richmond, Virginia. ☎

A regular bimonthly meeting.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or 1-800-828-1120/TDD ☎

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 ☎

GOVERNOR'S JOB TRAINING COORDINATING COUNCIL

† July 9, 1997 - 10 a.m. -- Open Meeting
Department of Social Services, Theater Row Building, 730 East Broad Street, Lower Level, Rooms 1 and 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular business meeting of the council to discuss workforce training.

Contact: Gail Nottingham, Senior Policy Analyst, Governor's Employment and Training Department, 730 E. Broad St., 9th Floor, Richmond, VA 23219, telephone (804) 786-2511, FAX (804) 786-2310, or (804) 786-2315/TDD ☎

STATE LAND EVALUATION ADVISORY COUNCIL

† August 12, 1997 - 10 a.m. -- Open Meeting
† September 23, 1997 - 10 a.m. -- Open Meeting
Department of Taxation, 2220 West Broad Street, Richmond, Virginia. ☎

A meeting to adopt suggested ranges of values for agricultural, horticultural, forest and open-space land use and the use-value assessment program.

Contact: H. Keith Mawyer, Property Tax Manager, Department of Taxation, Office of Customer Services,

Property Tax Unit, 2220 W. Broad St., Richmond, VA 23220, telephone (804) 367-8020.

MARINE RESOURCES COMMISSION

June 24, 1997 - 9:30 a.m. -- Open Meeting
† July 22, 1997 - 9:30 a.m. -- Open Meeting
† August 26, 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

August 22, 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 Department of Medical Assistance Services intends to consider amending regulations entitled: 12 VAC 30-120-360 et seq. Part VI. Medallion II. Federal regulations at 42 CFR 434.67 require the State Plan for Medical Assistance to include provisions for monitoring HMOs for violations specified in the federal regulations. This regulation adds a provision for monitoring physician incentive plans developed by HMOs.

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

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) 371-8854 or FAX (804) 371-4981.

BOARD OF MEDICINE

† July 31, 1997 - 10 a.m. -- Open Meeting
† August 8, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

A panel of the board will convene, pursuant to §§ 54.1-2400 and 9-6.14:12 of the Code of Virginia, to inquire into allegations that certain practitioners may have violated laws governing the practice of medicine. The panel 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 ☎

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
† July 15, 1997 - 8:30 a.m. -- Open Meeting
† August 5, 1997 - 8:30 a.m. -- Open Meeting
Sheraton Inn, 2801 Plank Road, Fredericksburg, Virginia.

June 27, 1997 - 9:30 a.m. -- Open Meeting
† August 21, 1997 - 9:30 a.m. -- Open Meeting
Williamsburg Marriott, 50 Kingsmill Road, Williamsburg, Virginia.

† July 9, 1997 - 10:30 a.m. -- Open Meeting
Roanoke Airport Marriott, 2801 Hershberger Road, N.W., Roanoke, 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 ☎

Calendar of Events

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

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 ☎

† June 30, 1997 - 10 a.m. – Open Meeting
The Holiday Inn Conference Center, 1815 West Mercury
Boulevard, Hampton, Virginia. (Interpreter for the deaf
provided upon request)

A meeting to discuss the Region Five 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 ☎

Facility Work Group

† July 8, 1997 - 10 a.m. – Open Meeting
Western State Hospital, Jeffries Building, Staunton,
Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review the draft report to be submitted to
the Joint Legislative Study Commission (HJR 240), and
to continue discussions of the funding mechanisms
proposed in the model descriptions.

Contact: Cheryl Crawford, Secretary, Department of Mental
Health, Mental Retardation and Substance Abuse Services,
P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-
5682 or FAX (804) 371-0092.

Pilot Leadership Team

† July 24, 1997 - 10 a.m. – Open Meeting
Department for the Visually Handicapped, 397 Azalea
Avenue, Library Conference Room, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to address issues related to system reform
funding methodologies and hear updates from the
Priority Populations/Case Rate Funding Subcommittee,
the Performance Outcome Measurement System
Subcommittee, and the Consumer/Family Involvement
Subcommittee.

Contact: An-Li Hoban, Senior Secretary, Department of
Mental Health, Mental Retardation and Substance Abuse
Services, P.O. Box 1797, Richmond, VA 23214, telephone
(804) 786-3921 or FAX (804) 371-0092.

Performance Outcome Measurement System (POMS) Subcommittee

† July 17, 1997 - 10 a.m. – Open Meeting
Department for the Visually Handicapped, 397 Azalea
Avenue, Library Conference Room, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to receive implementation status reports, an update on the MR Core Indicators Project, and the POMS evaluation. The subcommittee will also continue the process of developing data report formats and the integration of the substance abuse and mental health POMS.

Contact: Randy Koch, Director, Research and Evaluation, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 225-3394 or FAX (804) 786-9248.

STATE MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES BOARD

† **June 26, 1997 - Time to be announced** – Open Meeting
† **June 27, 1997 - Time to be announced** – Open Meeting
Richmond, Virginia. (Interpreter for the deaf provided upon request)

The regular convening of the board. The agenda and related papers will be available approximately two weeks prior to the meeting. For exact location please contact the board secretary.

Contact: Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-2308.

Human Rights Study Group

† **June 27, 1997 - 10 a.m.** -- Public Hearing
Richmond, Virginia. (Interpreter for the deaf provided upon request)

† **July 25, 1997 - 10 a.m.** -- Public Hearing
Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A public hearing. For exact location please contact the state board secretary.

Contact: Marlene Butler, State Board Secretary, Department of Mental Health, Mental Retardation and Substance Abuse Services, P.O. Box 1797, Richmond, VA 23214, telephone (804) 786-7945 or FAX (804) 371-2308.

STATE MILK COMMISSION

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

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

DEPARTMENT OF MOTOR VEHICLES

Medical Advisory Board

† **July 9, 1997 - 1 p.m.** -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Richmond, Virginia.

A regular business meeting.

Contact: Millicent N. Ford, Program Manager, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23220, telephone (804) 367-0132.

Calendar of Events

BOARD OF NURSING

† **June 24, 1997 - 9:30 a.m.** – Open Meeting
Pittsylvania Economic Development Organization, 34 North Main Street, Chatham, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct a formal hearing with licensed nurse and/or certified nurse aide. 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

BOARD OF PHARMACY

† **July 10, 1997 - 9 a.m.** – Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 4, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct informal conferences. 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.

GOVERNOR'S COMMISSION ON PHYSICAL FITNESS AND SPORTS

† **June 24, 1997 - 10 a.m.** – Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

The first meeting of the commission created by Governor's Executive Order No. 75(97).

Contact: Loretta Petty, Special Assistant for Community Affairs, Office of the Governor, State Capitol, 3rd Floor,

Richmond, VA 23219, telephone (804) 786-2211 or FAX (804) 371-2655.

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.

BOARD OF PSYCHOLOGY

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

VIRGINIA RACING COMMISSION

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 

BOARD OF REHABILITATIVE SERVICES

† September 25, 1997 - 10 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia.

A quarterly business meeting of the board.

Contact: John R. Vaughn, Commissioner, Department of Rehabilitative Services, 8004 Franklin Farms Dr., Richmond, VA 23230, telephone (804) 662-7010, toll-free 1-800-552-5019/TDD and Voice or (804) 662-9040/TDD 

VIRGINIA RESOURCES AUTHORITY

† July 8, 1997 - 9:30 a.m. -- Open Meeting
† August 12, 1997 - 9:30 a.m. -- Open Meeting
The Mutual Building, 909 East Main Street, Suite 700, Richmond, Virginia.

The board will meet to approve minutes of the meeting of the prior month, to review the authority's operations for the prior month, and to consider other matters and take other actions as it may deem appropriate. The planned agenda of the meeting will be available at the offices of the authority one week prior to the date of the meeting. Public comments will be received at the beginning of the meeting.

Contact: Shockley D. Gardner, Jr., Executive Director, Virginia Resources Authority, P.O. Box 1300, Richmond, VA 23218, telephone (804) 644-3100 or FAX (804) 644-3109.

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.

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)

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)

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

Calendar of Events

(804) 692-2209 or (804) 692-2215, or toll-free 1-800-828-1120/TDD ☎

BOARD OF SOCIAL WORK

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 ☎

TREASURY BOARD

July 23, 1997 - 9 a.m. -- Open Meeting
James Monroe Building, 101 North 14th Street, Treasury Board Room, 3rd Floor, Richmond, Virginia ☎

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 ☎

STATE WATER CONTROL BOARD

June 27, 1997 - 11 a.m. -- Public Hearing
Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Boulevard, Training Room, Virginia Beach, Virginia.

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

† **July 10, 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 to discuss regulatory review, disciplinary cases, and other matters requiring board action. Meeting is subject to cancellation. The time of the meeting is subject to change. 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 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 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.

Calendar of Events

LEGISLATIVE

JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

† July 14, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Senate
Room A, Richmond, Virginia. ☒

Staff briefing on follow-up of child day care in Virginia.

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 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
† Contractors, Board for
- Tradesman Certification Committee
† Gaming Commission, Charitable
Marine Resources Commission
† Nursing, Board of
† Physical Fitness, Governor's Commission on

June 25

Agriculture and Consumer Services, Department of
- Virginia Marine Products Board
Lottery Board, State
Small Business Financing Authority, Virginia
- Financing Committee

June 26

† Conservation and Recreation, Department of
- Chippokes Plantation Farm Foundation
Medicine, Board of
- Informal Conference Committee
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
Mental Health, Mental Retardation and Substance Abuse
Services Board, State
Richmond Hospital Authority
- Board of Commissioners

June 27

Dentistry, Board of
- Advertising Committee
Medicine, Board of

- Informal Conference Committee
† Mental Health, Mental Retardation and Substance
Abuse Services, Department of
† Mental Health, Mental Retardation and Substance
Abuse Services Board, State
Psychology, Board of
- Credentials Committee

June 30

Higher Education Tuition Trust Fund, Virginia
Intergovernmental Relations, Advisory Commission on
Mental Health, Mental Retardation and Substance Abuse
Services, Department of

July 1

† At Risk Youth and Their Families, Comprehensive
Services for
- State Management Team
† Funeral Directors and Embalmers, Board of
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 8

† Game and Inland Fisheries, Department of
† Hazardous Materials Training Advisory Committee
Mental Health, Mental Retardation and Substance Abuse
Services, Department of
- Facility Work Group
† Virginia Resources Authority

July 9

Asbestos Licensing and Lead Certification, Board for
† Contractors, Board for
† Job Training Coordinating Council, Governor's
† Medicine, Board of
- Informal Conference Committee
† Motor Vehicles, Department of
- Medical Advisory Board
Nursing Home Administrators, Board of

July 10

† Agriculture and Consumer Services, Department of
- Board of Agriculture and Consumer Services
† Child Day-Care Council
Conservation and Recreation, Department of
- Falls of the James Scenic River Advisory Board
Licensed Professional Counselors and Marriage and
Family Therapists, Board of
† Pharmacy, Board of
Soil and Water Conservation Board, Virginia
† Waterworks and Wastewater Works Operators, Board
for

July 11

- Accountancy Board for
- † Agriculture and Consumer Services, Department of
 - Virginia Pork Industry Board
- † Competition Council, Commonwealth
- † Health, Department of
 - Biosolids Use Information Committee
 - Biosolids Use Regulations Advisory Committee
- Social Work, Board of
 - Regulatory/Legislative Committee

July 14

- Cosmetology, Board for
- † Legislative Audit and Review Commission, Joint

July 15

- † Environmental Quality, Department of
 - Ground Water Protection Steering Committee
- † Medicine, Board of
 - Informal Conference Committee
- Water Control Board, State

July 16

- † Conservation and Recreation, Department of
- Visually Handicapped, Board for the

July 17

- Agriculture and Consumer Services, Department of
 - Pesticide Control Board
- † Environmental Quality, Department of
- Game and Inland Fisheries, Board of
- † Independent Living Council, Statewide
- Mental Health, Mental Retardation and Substance Abuse
- Services, Department o
 - POMS Subcommittee

July 18

- Game and Inland Fisheries, Board of
- † General Services, Department of
 - Design-Building/Construction Management Review Board
- † Information Management, Council on

July 21

- Accountancy, Board for
- † Forestry, Board of
- Higher Education Tuition Trust Fund, Virginia

July 22

- Agriculture and Consumer Services, Department of
 - Virginia Small Grains Board
- † Forestry, Board of
- † Marine Resources Commission
- Small Business Financing Authority
 - Loan Committee

July 23

- Agriculture and Consumer Services, Department of
 - Virginia Winegrowers Advisory Board
- † Auctioneers Board
- † Correctional Education, Board of
- Treasury Board

July 24

- Mental Health, Mental Retardation and Substance Abuse
- Services, Department o
 - Pilot Leadership Team

July 31

- † Medicine, Board of

August 4

- Barbers, Board for

August 5

- Hopewell Industrial Safety Council
- † Medicine, Board of
 - Informal Conference Committee

August 8

- † Agriculture and Consumer Services, Department of
 - Virginia Soybean Board
- † Medicine, Board of

August 12

- † Agriculture and Consumer Services, Department of
 - Plasticulture Task Force
- † Land Evaluation Advisory Council, State
- Real Estate Appraiser Board
- † Resources Authority, Virginia

August 13

- † Deaf and Hard-of-Hearing, Department for the
 - Advisory Board

August 15

- † General Services, Department of
 - Design-Building/Construction Management Review Board

August 18

- † Aging, Governor's Advisory Board on

August 19

- † Aging, Governor's Advisory Board on

August 21

- † Medicine, Board of
 - Informal Conference Committee

August 26

- † Marine Resources Commission

September 23

- † Land Evaluation Advisory Council, State

September 25

- † Rehabilitative Services, Board of

PUBLIC HEARINGS

June 25

- Water Control Board, State

June 27

- Mental Health, Mental Retardation and Substance Abuse
- Services Board, State
 - Human Rights Study Group

Calendar of Events

Water Control Board, State

July 1

† Environmental Quality, Department of

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

July 25

Mental Health, Mental Retardation and Substance Abuse
Services Board, State
- Human Rights Study Group

August 4

† Air Pollution Control Board, State