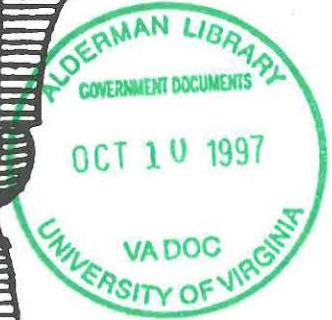


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THE VIRGINIA REGISTER

OF REGULATIONS



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SEPTEMBER 15, 1997

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

EMERGENCY REGULATIONS

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

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation; and (ii) file the proposed regulation with the Registrar 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.

CITATION TO THE VIRGINIA REGISTER

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

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Symbol Key

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

BOARD FOR ACCOUNTANCY

† 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 Accountancy intends to consider amending regulations entitled: **18 VAC 5-20-10 et seq. Board for Accountancy Regulations.** The purpose of the proposed action is to establish an efficient staggered system for collection of renewal fees. Each regulant would be given a particular month in which to renew. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 16, 1997.

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

VA.R. Doc. No. R97-759; Filed August 27, 1997, 11:50 a.m.

BOARD OF AGRICULTURE AND CONSUMER 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 Board of Agriculture and Consumer Services intends to consider amending regulations entitled: **2 VAC 5-50-10 et seq. Rules and Regulations Governing the Prevention, Control, and Eradication of Brucellosis in Cattle in Virginia.** The purpose of the proposed action is to review the regulation for effectiveness and continued need, including but not limited to expanding the scope of the regulation to include cervidae (all species of deer, elk, and moose) and bison (all animals in the genus bison). The recommendation to expand the regulation to require brucellosis testing of cervidae and bison and subject them to certain other requirements of the regulation differs from the recommendation contained in the report on this regulation made as a part of the comprehensive review of existing regulations. The recommendation of that earlier document was that the regulation should not be amended. The reason for this recommendation is that it is important to assure that brucellosis from infected cervidae and bison do not infect Virginia's cattle. Also, the federal government is proposing that all states have cervidae brucellosis eradication programs in place by 1998. The agency intends to hold a public hearing on the proposed regulation after publication.

The agency invites comment on whether there should be an advisor appointed for the present regulatory action. An advisor is (i) a standing advisory panel, (ii) an ad-hoc advisory panel, (iii) consultation with groups, (iv) consultation with individuals, or (v) any combination thereof.

Statutory Authority: §§ 3.1-724, 3.1-726, and 3.1-730 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on September 19, 1997, to Dr. W. M. Sims, Jr., Department of Agriculture and Consumer Services, Division of Animal Industry Services, P.O. Box 1163, Richmond, Virginia 23218-1163.

Contact: Thomas R. Lee, Program Supervisor, Office of Veterinary Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218-1163, telephone (804) 786-2483.

VA.R. Doc. No. R97-653; Filed July 21, 1997, 4:49 p.m.

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: Existing Stationary Sources (Rev. F97).** The purpose of the proposed action is to adopt regulation amendments that remove requirements concerning petroleum liquid storage and transfer operations (9 VAC 5 Chapter 40, Article 37) that exceed federal mandates as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Public Meeting: A public meeting will be held by the department in the Training Room, 629 East Main Street, Richmond, Virginia, at 11 a.m. on October 8, 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. October 9, 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

Notices of Intended Regulatory Action

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

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

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

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

There is, however, one provision of the regulation that exceeds the specific minimum requirements of a legally binding state or federal mandate.

9 VAC 5-40-5200 B specifies the applicability of the regulation to sources outside the volatile organic compound emissions control areas according to a phased schedule set

forth in 9 VAC 5-40-5200 B 1, 2, and 3. This requirement exceeds the federal mandate, which requires only sources inside, not outside, the volatile organic compound emissions control areas to comply with the standards. When the regulation was adopted Virginia's State Air Pollution Control Board chose to extend the applicability of the regulation to the entire state.

The specified provision of the regulation is not essential to protect the health, safety or welfare of the citizens of the Commonwealth because recent Regional Oxidant Modeling (ROM) has shown that controlling volatile organic compound emissions outside nonattainment areas does not contribute significantly to attainment within those areas. Therefore, the extension of the regulation's applicability to the entire state does not accomplish any more than limiting the applicability to the volatile organic compound emissions control areas.

Alternatives: Alternatives to the proposed regulation amendments are being considered by the department. The department has tentatively determined that the third alternative is appropriate as it is the least burdensome and least intrusive alternative that fully meets the purpose of the regulation amendments. The alternatives 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 reason specified below in 3.
2. Make alternative regulatory changes to those that are required by the provisions of the legally binding state or federal mandates. This option is not being selected because such changes are not warranted.
3. Amend the regulation to satisfy the provisions of the legally binding state or federal mandates. This option is being selected because such changes are necessary as the current regulation needlessly exceeds the federal mandate.

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 is mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

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

1. Establish enforceable emission limitations and other control measures as necessary to comply with the provisions of the CAA, including economic

incentives such as fees, marketable permits, and auctions of emissions rights;

2. Establish schedules for compliance;
3. Prohibit emissions which would contribute to nonattainment of the standards or interference with maintenance of the standards by any state; and
4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

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

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

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

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

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

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

including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;

6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and
7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

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

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

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

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

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

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

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;

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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. October 9, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240.

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

VA.R. Doc. No. R97-709; Filed August 12, 1997, 4:03 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 State Air Pollution Control Board intends to consider amending regulations entitled **Regulations for the Control and Abatement of Air Pollution (Rev. D97), 9 VAC 5-40-10 et seq. Existing Stationary Sources; 9 VAC 5-50-10 et seq. New and Modified Stationary Sources; and 9 VAC 5-60-10 et seq. Hazardous Air Pollutant Sources.** The purpose of the proposed action is to adopt regulation amendments to update the special provisions for existing sources, 9 VAC 5 Chapter 40, Part I; new and modified sources, 9 VAC 5 Chapter 50, Part I; and hazardous air pollutant sources, 9 VAC 5 Chapter 60, Part I, to be consistent with federal requirements as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Public Meeting: A public meeting will be held by the department in the Training Room, 629 East Main Street, Richmond, Virginia, at 10 a.m. on October 8, 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

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submitted until 4:30 p.m. October 9, 1997, to the Director, Office of 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 or (ii) for the efficient and economical performance of an important governmental function. The reasoning for this conclusion is set forth below.

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

Analysis reveals that the regulation is 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.

9 VAC 5 Chapter 40, Existing Sources

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. 9 VAC 5 Chapter 40, Part I, Special Provisions for Existing Sources, was adopted in 1975, when little detailed guidance existed. Therefore, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to meet the air quality standards.

The current regulatory requirements of 9 VAC 5 Chapter 40, Part I, Special Provisions, for Existing Sources and 9 VAC 5-10-20, Appendices J and N were reviewed against the current requirements of 40 CFR Part 51, and Appendix M and Appendix P to 40 CFR Part 51. Appendix S relates specifically to VOC sources and will be evaluated with pertinent regulations. In some cases, 40 CFR Part 51 suggested or required the use of regulatory provisions of 40 CFR Part 60. In these cases, the requirements of 40 CFR Part 60 were reviewed against 9 VAC 5 Chapter 40, Part I, Special Provisions, and 9 VAC 5-10-20, Appendix J. In addition, the current regulatory requirements of 9 VAC 5-40-20 I concerning stack height were reviewed against the current requirements of 40 CFR 51.118.

In this review, certain provisions were found to be inconsistent with the corresponding federal requirements. An explanation of the amendments needed to bring the affected provisions in line with the federal requirements is provided below.

1. 9 VAC 5-10-20, Appendix J needs to be amended to meet the requirements of 40 CFR Part 51, Appendix P, with regard to the frequency of sampling, analyzing and data recording and with regard to the number of data points needed to calculate averages when using continuous emissions monitoring.
2. 9 VAC 5-40-30 needs to be amended to include the test methods in 40 CFR Part 51, Appendix M, as well as those in 40 CFR Part 60, Appendix A.

9 VAC 5 Chapter 50, New and Modified Sources

The current regulatory requirements of 9 VAC 5 Chapter 50, Part I, Special Provisions for New and Modified Sources were reviewed against the current requirements of 40 CFR Part 51, and Appendix M and Appendix P to 40 CFR Part 51. Appendix S relates specifically to VOC sources and will be evaluated with pertinent regulations. In some cases, 40 CFR Part 51 suggested or required the use of regulatory provisions of 40 CFR Part 60. In these cases, the requirements of 40 CFR Part 60 were reviewed against 9 VAC 5 Chapter 50, Part I, Special Provisions. In addition, the current regulatory requirements of 9 VAC 5-50-20 H concerning stack height were reviewed against the current requirements of 40 CFR 51.118 and 40 CFR 51.164.

In this review, certain provisions were found to be inconsistent with the corresponding federal requirements. An explanation of the amendments needed to bring the affected provisions in line with the federal requirements is provided below.

9 VAC 5-50-30 needs to be amended to include the test methods in 40 CFR Part 51, Appendix M, as well as those in 40 CFR Part 60, Appendix A.

9 VAC 5 Chapter 60, Hazardous Air Pollutant Sources

The current regulatory requirements of 9 VAC 5 Chapter 60, Part I, Special Provisions, Hazardous Air Pollutants, were reviewed against the current requirements of 40 CFR Part 61.

In this review, certain provisions were found to be inconsistent with the corresponding federal requirements. An explanation of the amendments needed to bring the affected provisions in line with the federal requirements is provided below.

9 VAC 5 Chapter 60, Part I, needs to be amended to ensure that it meets the federal requirements of 40 CFR Part 61, particularly with regard to requirements for visible emissions.

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

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regulation amendments. 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 the regulation would remain out of date.
2. Make alternative regulatory changes to those required by the provisions of the legally binding state or federal mandates. This option is not being selected because no alternative to the federal mandate would be appropriate.
3. Amend the regulation to satisfy the provisions of the legally binding state or federal mandates. This option is being selected because the regulation should be updated to reflect the latest requirements.

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.

9 VAC 5 Chapter 40, Existing Sources

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. Establish a program for the enforcement of the emission limitations and schedules for compliance; and
4. Require sources of air pollution to install, maintain, and replace monitoring equipment as necessary and to report periodically on emissions-related data.

Section 123 of the Clean Air Act establishes the criteria for determining the stack height for stationary sources of air pollution in existence before the date of enactment of the Clean Air Act Amendments of 1970. Specifically the section requires that "the degree of emission limitation required of any source for control of any air pollutant under an applicable implementation plan...must not be affected in any manner by:

1. So much of any source's stack height that exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or
2. Any other dispersion technique."

For purposes of this section the term "dispersion technique" includes any intermittent or supplemental control of air

pollutants varying with atmospheric conditions. Good engineering practice means, with respect to stack height, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles.

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

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, 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, and intermittent control systems.

Section 51.118 of Subpart G sets out stack height requirements. Section 51.118 requires that the plan submitted by the state must provide that "the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique." Facilities with stacks in existence after December 31, 1970, must follow good engineering practice.

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 and assignment of legal authority to local agencies.

Section 51.230 of 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. 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;

4. 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

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

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

1. The provisions of law or regulation which the state determines provide the authorities required under § 51.231 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 Subpart L 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.

Appendix M (Recommended Test Methods for State Implementation Plans) provides recommended test methods for measuring air pollutants which a state may choose to meet the requirements of Subpart K. The state may also choose to meet the requirements of Subpart K through any of the relevant methods in Appendix A to 40 CFR Part 60 or any other method that could be approved and adopted into the state implementation plan.

Appendix P (Minimum Emission Monitoring Requirements) specifies the minimum requirements for continuous emission monitoring and recording.

9 VAC 5 Chapter 50, New and Modified Sources

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. Establish a program for the enforcement of the emission limitations and schedules for compliance; and

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

Section 110(j) specifies that, as a condition for issuance of any permit required under this title, the owner or operator of each new or modified stationary source which is required to obtain such a permit must show to the satisfaction of the permitting authority that the technological system of continuous emission reduction which is proposed will enable the source to comply with the standards of performance which are to apply to the source and that the construction or modification and operation of the source will be in compliance with all other requirements of the CAA.

Section 123 of the Clean Air Act establishes the criteria for determining the stack height for stationary sources of air pollution in existence before the date of enactment of the Clean Air Act Amendments of 1970. Specifically the section requires that "the degree of emission limitation required of any source for control of any air pollutant under an applicable implementation plan...must not be affected in any manner by:

1. So much of any source's stack height that exceeds good engineering practice (as determined under regulations promulgated by the Administrator), or
2. Any other dispersion technique."

For purposes of this section the term "dispersion technique" includes any intermittent or supplemental control of air pollutants varying with atmospheric conditions. Good engineering practice means, with respect to stack height, the height necessary to ensure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles.

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

Subpart F (Procedural Requirements) specifies definitions of key terms, stipulations and format for plan submission, requirements for public hearings, and conditions for plan revisions and federal approval.

Subpart G (Control Strategy) specifies the description of emissions reductions estimates sufficient to attain and maintain the standards, the description of control measures and schedules for implementation, 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, and intermittent control systems.

Section 51.118 of Subpart G sets out stack height requirements. Section 51.118 requires that the plan submitted by the state must provide that "the degree of emission limitation required of any source for control of any

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air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique." Facilities with stacks in existence after December 31, 1970, must follow good engineering practice.

Subpart I (Review of New Sources and Modifications) specifies legally enforceable procedures, public availability of information on sources, identification of responsible agency, administrative procedures, stack height procedures, permit requirements, and requirements for prevention of significant deterioration of air quality.

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 and assignment of legal authority to local agencies.

Section 51.230 of 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. 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;
4. 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
5. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

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

1. The provisions of law or regulation which the state determines provide the authorities required under § 51.231 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 Subpart L 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.

Appendix M (Recommended Test Methods for State Implementation Plans) provides recommended test methods for measuring air pollutants which a state may choose to meet the requirements of Subpart K. The state may also choose to meet the requirements of Subpart K through any of the relevant methods in Appendix A to 40 CFR Part 60 or any other method that could be approved and adopted into the state implementation plan.

Appendix P (Minimum Emission Monitoring Requirements) specifies the minimum requirements for continuous emission monitoring and recording.

9 VAC 5 Chapter 60, Hazardous Air Pollutant Sources

Hazardous air pollutants (HAPs) are pollutants for which no ambient air quality standard is applicable yet pose the risk of serious health problems. EPA's program for dealing with HAPs was first established in § 112 of the Clean Air Act Amendments of 1977. This section requires that EPA develop and maintain a list of hazardous air pollutants (HAPs), and develop national emission standards (NESHAPs) for these pollutants.

Section 112(b)(1)(A) requires EPA to develop the list of HAPs; under § 112(b)(1)(B), emission standards for each HAP on the list must be established. States may be delegated the authority to implement and enforce the NESHAPs; § 112(d)(1) states, "Each State may develop and submit to [EPA] a procedure for implementing and enforcing emission standards for [HAPs] for stationary sources located in such State. If [EPA] finds the State procedure is adequate, [it] shall delegate to such State any authority . . . to implement and enforce such standards."

The National Emission Standards for Hazardous Air Pollutants are found in 40 CFR 61. Thus far, over 20 NESHAPs have been established, as well as related test methods and quality assurance procedures. Additionally, the General Provisions include lists of pollutants and applicability; determination, application, and approval of construction or modification; source reporting; compliance with standards and maintenance requirements; emission tests; monitoring requirements; and state authority.

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

Public comments may be submitted until 4:30 p.m. October 9, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

Contact: Mary E. Major, Environmental Program Manager, Office of Air Program Development, Department of

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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. R97-708; Filed August 12, 1997, 4:03 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 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: Existing Stationary Sources (Rev. L97)**. The purpose of the proposed action is to amend the regulation in order to clearly identify which sources are subject to the regulation as identified pursuant to the review of existing regulations mandated by Executive Order 15 (94).

Public Meeting: A public meeting will be held by the department in the Training Room, 629 East Main Street, Richmond, Virginia, at 10 a.m. on Monday, October 20, 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. Tuesday, October 21, 1997, to the Director, Office of 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 amendments 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.

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

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

Federal guidance on states' approaches to air pollution control has varied considerably over the years, ranging from very general in the early years of the Clean Air Act to very specific in more recent years. This regulation, Rule 4-13, was first adopted in 1972, when no detailed guidance existed. Therefore, the legally binding federal mandate for this regulation is general, not specific, consisting of the Clean Air Act's broad-based directive to states to meet the air quality standard for particulate matter, which is emitted by all kraft pulp mill recovery furnace units, smelt dissolving tank units, lime kiln units and slaker tank units.

Guidance for the control of TRS was published in an EPA guideline document in 1979. The rule was amended to address the control of TRS, which is emitted by each kraft pulp mill recovery furnace, digester system, multiple-effect evaporative system, lime kiln, condensate stripper system, and smelt dissolving tank.

The agency performed a review to determine if the regulation is written so as to permit only one reasonable interpretation. This review revealed that some confusion exists over whether the regulation applies to semi-chemical paper mills or if this type of source is actually controlled by another regulation.

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

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

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 is mandated by federal law or regulation. A succinct statement of the source (including legal citation) and scope of the mandate may be found below.

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Section 110(a) of the Clean Air Act (CAA) mandates that each state adopt and submit to the 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.

Section 111(d) requires that each state submit a plan which will (i) establish standards of performance for any existing source for any air pollutant: (a) for which criteria have not been issued or which is not included on a list published under section 110 (or emitted from a source category which is regulated under section 112 or 112(b)), but (b) to which a standard of performance under this section would apply if such existing source were a new source and (ii) provides for the implementation and enforcement of such standards of performance. The state may take into consideration the remaining useful life of the existing source to which standards apply.

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

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

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

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

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

1. Adopt emission standards and limitations and any other measures necessary for the attainment and maintenance of the national ambient air quality standards;
2. Enforce applicable laws, regulations, and standards, and seek injunctive relief;
3. Abate pollutant emissions on an emergency basis to prevent substantial endangerment to the health of persons;
4. Prevent construction, modification, or operation of a facility, building, structure, or installation, or combination thereof, which directly or indirectly results or may result in emissions of any air pollutant at any location which will prevent the attainment or maintenance of a national standard;
5. Obtain information necessary to determine whether air pollution sources are in compliance with applicable laws, regulations, and standards, including authority to require recordkeeping and to make inspections and conduct tests of air pollution sources;
6. Require owners or operators of stationary sources to install, maintain, and use emission monitoring devices and to make periodic reports to the state on the nature and amounts of emissions from such stationary sources; and
7. Make emissions data available to the public as reported and as correlated with any applicable emission standards or limitations.

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

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

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

40 CFR Part 60 subpart B provides the criteria for adoption and submittal of state plans for designated facilities. The issues include: (i) publication of guideline documents, emissions guidelines, and final compliance times; (ii) adoption and submittal of state plans including public hearings; (iii) emission standards and compliance schedules;

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(iv) emission inventories and source surveillance, reports; (v) actions by the EPA Administrator; (vi) plan revisions by the state; and (vii) plan revisions by the administrator.

The EPA issued a guideline entitled Kraft Pulping: Control of TRS emissions from Existing Mills, EPA 450/2-78-003b (March, 1979). This guideline provides information related to: the health-and-welfare-related effects of the TRS compounds; paper industry characteristics; process description; emissions characteristics, guidelines and control techniques; and cost analysis information.

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

Public comments may be submitted until 4:30 p.m. Tuesday, October 21, 1997, to the Director, Office of Program Development, Department of Environmental Quality, P.O. Box 10009, Richmond, Virginia 23240.

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

VA.R. Doc. No. R97-739; Filed August 25, 1997, 11:38 a.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 50-30-10 et seq. Tradesman Certification Regulations**. The purpose of the proposed action is to amend the current regulations to include the trade of backflow prevention device worker as required by §§ 54.1-1128 through 54.1-1135 of the Code of Virginia. Other changes to the regulations which may be necessary will be considered. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-201, 54.1-1102, and 54.1-1128 through 54.1-1135 of the Code of Virginia.

Public comments may be submitted until October 1, 1997, to Steven L. Arthur, Administrator, Tradesman Program, Board for Contractors, 3600 West Broad Street, Richmond, VA 23230.

Contact: Jan McMahon, Administrative Assistant, Board for Contractors, Tradesman Program, 3600 W. Broad St., Richmond, VA 23230, telephone (804) 367-6166 or FAX (804) 367-2474.

VA.R. Doc. No. R97-701; Filed August 6, 1997, 3:03 p.m.

BOARD OF DENTISTRY

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 Dentistry intends to consider amending regulations entitled: **18 VAC 60-20-105 et seq. Virginia Board of Dentistry Regulations**. The purpose of the proposed action is to replace emergency regulations which established an inactive license for dentists and dental hygienists according to the provisions of §§ 54.1-2709 and 54.1-2722 of the Code of Virginia as amended by the 1997 Session of the General Assembly. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2709 and 54.1-2722 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9909 or FAX (804) 662-9943.

VA.R. Doc. No. R97-728; Filed August 13, 1997, 11:28 a.m.

BOARDS OF EDUCATION; JUVENILE JUSTICE; MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; AND SOCIAL 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 Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider repealing regulations entitled: **8 VAC 20-50-10 et seq., 6 VAC 35-50-10 et seq., 12 VAC 35-30-10 et seq., and 22 VAC 40-150-10 et seq. Standards for Interdepartmental Regulation of Residential Facilities for Children**. The purpose of the proposed action is to repeal the existing regulations and promulgate a replacement regulation. Although the agencies jointly promulgated an identical regulation, it is published and considered as four different regulations in the Virginia Administrative Code. In addition to any substantive changes that may be made, the agencies propose to (i) reorganize and simplify the regulation, (ii) assure the regulation addresses only the generic elements of care related to all children, (iii) increase providers' flexibility to provide care based on the facility's program and the population served, and (iv) increase providers' and regulators' opportunities for use of professional judgment. The need for such revisions was verified in the agencies' regulation review analyses prepared in response to Executive Order 15 (94): Comprehensive Review of All Existing Agency

Notices of Intended Regulatory Action

Regulations. The agencies intend to hold a public hearing on the repeal of the proposed regulations after publication.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-183.1, 37.1-189.1, 63.1-25, 63.1-196, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: John J. Allen, Coordinator, Office of Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960 or FAX (804) 692-1999.

VA.R. Doc. No. R97-705; Filed August 12, 1997, 12:54 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 Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services intend to consider promulgating regulations entitled: **22 VAC 42-10-10 et seq. Standards for Interagency Regulation of Children's Residential Facilities.** The purpose of the proposed action is to promulgate a single regulation to reorganize, simplify, and replace four regulations which are each entitled Standards for Interdepartmental Regulation of Residential Facilities for Children. In addition to any substantive changes that may be made, the agencies propose to (i) reorganize and simplify the regulation, (ii) assure the regulation addresses only the generic elements of care related to all children, (iii) increase providers' flexibility to provide care based on the facility's program and the population served, and (iv) increase providers' and regulators' opportunities for use of professional judgment. The need for such revisions was verified in the agencies' regulation review analyses prepared in response to Executive Order 15 (94): Comprehensive Review of All Existing Agency Regulations. The agencies intend to hold a public hearing on the proposed regulations after publication.

Statutory Authority: §§ 16.1-309.9, 22.1-321, 22.1-323, 22.1-323.2, 37.1-182, 37.1-183.1, 37.1-189.1, 63.1-25, 63.1-196, 63.1-196.4, 63.1-217, 66-10, and 66-24 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: John J. Allen, Coordinator, Office of Interdepartmental Regulation, 730 E. Broad St., Richmond, VA 23219-1849, telephone (804) 692-1960 or FAX (804) 692-1999.

VA.R. Doc. No. R97-706; Filed August 12, 1997, 12:56 p.m.

DEPARTMENT OF HEALTH (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to consider amending regulations entitled: **12 VAC 5-90-10 et seq. Regulations for Disease Reporting and Control.** The purpose of the proposed action is to amend the regulations to comply with current disease control policies. These policies will facilitate efforts to capture, measure, and contain emerging diseases effectively. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Public comments may be submitted until September 19, 1997.

Contact: C. Diane Woolard, Ph.D., M.P.H., Director, Division of Surveillance and Investigation, Department of Health, Office of Epidemiology, P.O. Box 2448, Room 113, Richmond, VA 23218, telephone (804) 786-6261, FAX (804) 371-4050, or toll-free 1-800-828-1120/TDD ☎

VA.R. Doc. No. R97-685; Filed July 30, 1997, 9:44 a.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 and Services.** The purpose of the proposed action is to amend the State Plan for Medical Assistance to provide coverage for the additional school-based health care services of skilled nursing services and Individualized Education Plan for development for children who qualify for special education services under Public Law 101-476. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 1, 1997, to Jeff Nelson, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219.

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 (804) 371-4981.

VA.R. Doc. No. R97-722; Filed August 13, 1997, 11:12 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 Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-50-100, 12 VAC 30-50-140, and 12 VAC 30-50-543, Amount, Duration, and Scope of Medical and Remedial Care Services.** The purpose of the proposed action is to authorize the Department of Medical Assistance Services to provide reimbursement for high dose chemotherapy and bone marrow transplants for individuals over the age of 21 who have been diagnosed with lymphoma or breast cancer and to clarify the transplant reimbursement policy. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 1, 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 (804) 371-4981.

VA.R. Doc. No. R97-721; Filed August 13, 1997, 11:12 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 Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-70-140, Methods and Standards for Establishing Payment Rates; Inpatient Hospital Care.** The purpose of the proposed action is to amend the current hospital appeals regulations to address the new payment methodology based on Diagnosis Related Groups. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 1, 1997, to the Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219.

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 (804) 371-4981.

VA.R. Doc. No. R97-720; Filed August 13, 1997, 11:12 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 Department of Medical Assistance Services intends to consider amending regulations entitled: **12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care.** The purpose of the proposed action is to establish a payment methodology to nursing facilities for care rendered to persons having diagnoses of traumatic brain injury and the

concomittant behavioral problems. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 1, 1997, to Scott Crawford, Division of Financial Operations, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219.

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 (804) 371-4981.

VA.R. Doc. No. R97-723; Filed August 13, 1997, 11:12 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 Department of Medical Assistance Services intends to consider promulgating regulations entitled: **12 VAC 30-120-10 et seq. Waivered Services.** The purpose of the proposed action is to promulgate regulations for the provision of personal attendant services when they are directed by the consumer-recipient of the services. This program also contains the requirements and restrictions applicable to attendants, provider agencies, service coordinators, and the consumer-recipients themselves. The agency does not intend to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 1, 1997, to Karen Lawson, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219.

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 (804) 371-4981.

VA.R. Doc. No. R97-724; Filed August 13, 1997, 11:12 a.m.

BOARD OF MEDICINE

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 Medicine intends to consider amending regulations entitled: **18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy, Podiatry, Chiropractic, and Physician Acupuncture.** The purpose of the proposed action is to consider amendments to regulations in compliance with § 54.1-2912.1 of the Code of Virginia which provides that the board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing,

Notices of Intended Regulatory Action

or any other requirement. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2912.1 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R97-726; Filed August 13, 1997, 11:28 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 Board of Medicine intends to consider amending regulations entitled: **18 VAC 85-101-10 et seq. Regulations Governing the Licensure of Radiologic Technologists and Radiologic Technologists-Limited.** The purpose of the proposed action is to consider minimal guidelines for a board-approved educational program and to establish a requirement for testing by a recognized entity for licensure of radiologic technologists-limited. The board will also consider standards for licensing of persons for performance of mammography. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400, 54.1-2956.8:1 and 54.1-2956.8:2 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Warren W. Koontz, M.D., Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9908 or FAX (804) 662-9943.

VA.R. Doc. No. R97-725; Filed August 13, 1997, 11:28 a.m.

BOARDS OF NURSING AND MEDICINE

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Boards of Nursing and Medicine intend to consider amending regulations entitled: **18 VAC 90-30-10 et seq. Regulations Governing the Licensure of Nurse Practitioners.** The purpose of the proposed action is to consider amendments which will (i) clarify terminology and categories of licensure, (ii) revise the appointment of an advisory committee, (iii) clarify the role of a nurse practitioner in the practice of a podiatrist, (iv) add criteria such as "according to an acceptable standard of practice" to the requirement for availability of a supervising physician, and (v) revise burdensome requirements for approval of educational programs. The agency intends to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 54.1-2400 and 54.1-2957 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

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

VA.R. Doc. No. R97-727; Filed August 13, 1997, 11:28 a.m.

BOARD FOR OPTICIANS

† 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 Opticians intends to consider amending regulations entitled: **18 VAC 100-20-10 et seq. Board for Opticians Regulations.** The purpose of the proposed action is to establish a definition section; clarify entry requirements for licensure; establish provisions for reciprocity; specify examination procedures and examination content for licensure examination and contact lenses examination; modify the procedures and provisions regarding renewal, reinstatement, and the standards of practice and conduct; and establish an efficient staggered system for collection of renewal fees. The agency intends to hold a public hearing on the proposed regulation after publication.

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

Public comments may be submitted until October 16, 1997.

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 ☎

VA.R. Doc. No. R97-758; Filed August 27, 1997, 11:50 a.m.

BOARD OF SOCIAL 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 State Board of Social Services intends to consider repealing regulations entitled: **22 VAC 40-40-10 et seq. Rules of the Neighborhood Assistance Act.** The purpose of the proposed action is to repeal outdated and burdensome regulations. The agency does not intend to hold a public hearing on the repeal of the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-323 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Notices of Intended Regulatory Action

Contact: Phyllis Parrish, Special Projects Coordinator,
Department of Social Services, 730 E. Broad St., Richmond,
VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

VA.R. Doc. No. R97-704; Filed August 12, 1997, 12:54 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 State Board of Social Services intends to consider promulgating regulations entitled: **22 VAC 40-41-10 et seq. Neighborhood Assistance Tax Credit Program.** The purpose of the proposed action is to replace regulations which are being repealed and reflect changes which have developed over time and through legislation. The regulations will set out criteria for approving projects, allocating tax credits and appealing decisions made by Department of Social Services staff. The regulations will also require applicant organizations to submit an audit as a prerequisite to approval. The agency does not intend to hold a public hearing on the proposed regulation after publication.

Statutory Authority: §§ 63.1-25 and 63.1-323 of the Code of Virginia.

Public comments may be submitted until October 1, 1997.

Contact: Phyllis Parrish, Special Projects Coordinator,
Department of Social Services, 730 E. Broad St., Richmond,
VA 23219, telephone (804) 692-1895 or FAX (804) 692-1869.

VA.R. Doc. No. R97-707; Filed August 12, 1997, 12:54 p.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.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

November 13, 1997 - 9 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

November 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 Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **18 VAC 30-20-10 et seq. Regulations Governing the Practice of Audiology and Speech-Language Pathology.** The purpose of the proposed amendments is to amend the regulations pursuant to Executive Order 15 (94) for simplification and clarification of requirements and to remove the language which is unnecessary or duplicative.

Statutory Authority: §§ 54.1-2400 and 54.1-2600 et seq. of the Code of Virginia.

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) 662-9907 or FAX (804) 662-9943.

STATE BOARD OF HEALTH

November 14, 1997 - Public comments may be submitted until 5 p.m. on 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 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed amendments is to conform to recent legislation enacted to decrease regulatory involvement with projects to improve or increase services through capital expenditures at medical care facilities.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until November 14, 1997, to Nancy R. Hofheimer, Director, Center for Quality Health Care Services, Department of Health, 3600 West Broad Street, Suite 216, Richmond, VA 23230.

Contact: Paul E. Parker, Director, Certificate of Public Need, Center for Quality Health Care Services, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2126 or FAX (804) 367-2149.

BOARD OF PHARMACY

September 25, 1997 - 1 p.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

November 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 Board of Pharmacy intends to consider amending regulations entitled: **18 VAC 110-20-10 et seq. Regulations Governing the Practice of Pharmacy.** The purpose of the proposed amendments is to amend the requirements on mechanical devices to accommodate the utilization of automated dispensing devices. Amendments address the loading, checking, recordkeeping, and administration of drugs from these devices and are intended to ensure drug safety and efficacy.

Statutory Authority: § 54.1-2400 and Chapters 33 and 34 of Title 54.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, R.Ph., Executive Director, Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9911 or FAX (804) 662-9943.

Public Comment Periods - Proposed Regulations

BOARD OF PSYCHOLOGY

October 23, 1997 - 10 a.m. -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 2, Richmond, Virginia.

November 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 Board of Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology.** The purpose of the proposed amendments is to increase fees for licensure renewal in compliance with § 54.1-113 of the Code of Virginia which requires that the board collect fees sufficient to cover the expenses of administering the licensure program.

Statutory Authority: § 54.1-2400 and Chapter 36 of Title 54.1 of the Code of Virginia.

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

STATE WATER CONTROL BOARD

October 15, 1997 - 6 p.m. -- Public Hearing
James City County Board of Supervisors Room, 101-C
Mounts Bay Road, Building C, Williamsburg, Virginia.

October 16, 1997 - 6 p.m. -- Public Hearing
Roanoke County Administrative Center, 5404 Bernard Drive,
Roanoke, Virginia.

October 24, 1997 - 6 p.m. -- Public Hearing
James J. McCoart Administration Building, 1 County Complex
Court, 4850 Davis Ford Road, Board Chambers, Prince
William, Virginia.

November 17, 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 consider **repealing** regulations entitled: **9 VAC 25-90-10 et seq. Oil Discharge Contingency Plans and Administrative Fees for Approval, 9 VAC 25-140-10 et seq. Aboveground Storage Tank Pollution Prevention Requirements, and 9 VAC 25-130-10 et seq. Facility and Aboveground Storage Tank Registration Requirements, and adopting** regulations entitled: **9 VAC 25-91-10 et seq. Facility and Aboveground Storage Tank (AST) Regulations.** The purpose of the proposed regulation is to replace three existing AST regulations. It has been drafted to eliminate duplicate inconsistencies and ambiguities between the three regulations and to provide additional information for regulated facilities in requesting regulatory variances.

Statutory Authority: §§ 62.1-44.2, 62.1-44.15 (10), 62.1-44.34:15, 62.1-44.34:15.1, and 62.1-44.34:19.1 of the Code of Virginia.

Contact: L. Samuel Lillard, AST Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4276 or FAX (804) 698-4266.

October 15, 1997 - 6 p.m. -- Public Hearing
James City County Board of Supervisors Room, 101-C
Mounts Bay Road, Building C, Williamsburg, Virginia.

October 16, 1997 - 6 p.m. -- Public Hearing
Roanoke County Administrative Center, 5404 Bernard Drive,
Roanoke, Virginia.

October 24, 1997 - 6 p.m. -- Public Hearing
James J. McCoart Administration Building, 1 County Complex
Court, 4850 Davis Ford Road, Board Chambers, Prince
William, Virginia.

November 17, 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 consider **repealing** regulations entitled: **9 VAC 25-100-10 et seq. Tank Vessel Financial Responsibility and Administrative Fees for Approval and adopting** regulations entitled: **9 VAC 25-101-10 et seq. Tank Vessel Oil Discharge Contingency Plans and Financial Responsibility Regulation.** The purpose of the proposed action is to repeal the existing regulation and incorporate necessary provisions into a new regulation for tank vessels transferring or transporting oil upon state waters which combines the necessary requirements of two existing tank vessel regulations.

Statutory Authority: §§ 62.1-44.15 (10), 62.1-44.34:16 and 62.1-44.34:21 of the Code of Virginia.

Contact: Janet C. Queisser, Tank Vessel Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4268 or FAX (804) 698-4266.

October 21, 1997 - 2 p.m. -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia.

November 17, 1997 - Public comments may be submitted
until 4 p.m. on 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 amend regulations entitled: **9 VAC 25-120-10**

Public Comment Periods - Proposed Regulations

et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites. The proposed general permit will regulate discharges of wastewaters from sites contaminated by petroleum products. This general permit will replace the Corrective Action Plan general permit, VAG000002, which expires February 24, 1998.

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.

Request for Comments: The board is seeking comments from interested persons on the proposed general permit regulation, as well as comments regarding the costs and benefits of the proposal or any other alternatives.

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

Comparison with Statutory Mandates: The proposed general permit regulation does not exceed the specific minimum requirements of any legally binding state or federal mandate.

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

Contact: Richard Ayers, Technical Services Administrator, Department of Environmental Quality, P. O. Box 10009, Richmond, VA 23240, telephone (804) 698-4075 or FAX (804) 698-4032.

PROPOSED REGULATIONS

For information concerning Proposed Regulations, see Information Page.

Symbol Key

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

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Title of Regulation: 18 VAC 30-20-10 et seq. Regulations of the Board of Audiology and Speech-Language Pathology (amending 18 VAC 30-20-10, 18 VAC 30-20-50, 18 VAC 30-20-70, 18 VAC 30-20-80, 18 VAC 30-20-150, 18 VAC 30-20-160, 18 VAC 30-20-170, 18 VAC 30-20-180, 18 VAC 30-20-240 and 18 VAC 30-20-280; repealing 18 VAC 30-20-20, 18 VAC 30-20-30, 18 VAC 30-20-40, 18 VAC 30-20-60, 18 VAC 30-20-90, 18 VAC 30-20-100, 18 VAC 30-20-110, 18 VAC 30-20-120, 18 VAC 30-20-130, 18 VAC 30-20-140, 18 VAC 30-20-190, 18 VAC 30-20-200, 18 VAC 30-20-210, 18 VAC 30-20-220, 18 VAC 30-20-250, 18 VAC 30-20-260 and 18 VAC 30-20-270; adding 18 VAC 30-20-45).

Statutory Authority: § 54.1-2400 and Chapter 26 (54.1-2600 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: November 3, 1997 - 9 a.m.

Public comments may be submitted until November 14, 1997.

(See Calendar of Events section for additional information)

Basis: Chapters 24 (§ 54.1-2400 et seq.) and 26 (§ 54.1-2600 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Section 54.1-2400 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and responsibility to promulgate regulations. Section 54.1-2600 defines the practices of audiology and speech-language pathology and requires licensure for the professions, establishes the Board of Audiology and Speech-Language Pathology, and authorizes it to promulgate regulations for ethical conduct in the practice.

Purpose: The purpose of the proposed amendments is to reduce the complexity and number of regulations, eliminate unnecessary regulation and clarify licensure requirements and standards of conduct in order to assure the competency of licensees for the health, safety, and welfare of the public.

Substance: Definitions which are in § 54.1-2600 are referenced in 18 VAC 30-20-10 and those which are unnecessary for an understanding of these regulations have been eliminated. A new definition has been proposed for "supervision" in order to clarify terminology which is necessary for compliance with these regulations.

18 VAC 30-20-20, Legal base; 18 VAC 30-20-30, Purpose; and 18 VAC 30-20-40, Applicability, have been repealed as it is not necessary to state the legal base, the purpose, and the applicability in the body of the regulations.

18 VAC 30-20-45, Required licenses, is a restatement of current regulations in sections 18 VAC 30-20-200 and 18 VAC 30-20-210 which have been repealed.

18 VAC 30-20-50, Posting of license. Amendments are proposed to clarify that a copy of the license should be posted in each facility in which the licensee practices.

18 VAC 30-20-60, Availability of license, is unnecessary and is not enforced; the board proposes its repeal.

In proposed regulations, all fees and pertinent information about fees are included in 18 VAC 30-20-80. The only change from current fees is a proposal to move from an annual renewal to a biennial. Therefore, the current annual renewal fee of \$30 would become a biennial fee of \$60.

It is proposed that 18 VAC 30-20-90 through 18 VAC 30-20-140 be repealed as the requirements may be more simply stated in a listing of fees and in the section on renewal and reinstatement.

Amendments proposed in 18 VAC 30-20-150 will eliminate excess verbiage and include pertinent information on renewals in one section.

An amendment to 18 VAC 30-20-160 will change from three to two the number of years after expiration of a license a person is allowed to reinstate. With a biennial renewal cycle, the two-year period seemed to be a reasonable time for reinstatement after which the board would want the applicant to demonstrate that he is competent to resume practice.

Amendments are proposed to 18 VAC 30-20-170 to reduce the number and complexity of the regulations and to greatly simplify the requirements for licensure. Completion of requirements for the Certificate of Clinical Competence provides assurance that an applicant has completed the educational prerequisites and clinical training and has passed a qualifying examination which the board has determined is essential for licensure. If the applicant has completed his education and practicum and has passed a qualifying examination, he may also qualify for licensure prior to obtaining certification by the American Speech-Language and Hearing Association.

An amendment to add subsection B to 18 VAC 30-20-180 is proposed to include some necessary requirements from 18 VAC 30-20-190 which is being repealed.

18 VAC 30-20-200 through 18 VAC 30-20-220 have been repealed. The regulations are either unnecessary or have been incorporated into other sections.

18 VAC 30-20-240, Supervisory Responsibilities, has been renamed from "Core of Knowledge" to more aptly describe its purpose, which is to set forth regulations for supervision. Amendments are proposed to clarify requirements for

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supervision of unlicensed assistants and to include a current requirement for unlicensed persons to be so identified.

18 VAC 30-20-250 through 18 VAC 30-20-270 have been repealed as the board determined that it was unnecessary and unenforceable regulation.

In consultation with the Assistant Attorney General who serves as counsel to the board, several amendments are proposed to 18 VAC 30-20-280 to clarify or restate regulations on unprofessional conduct. The requirement for the licensee to be present at all times within the same building as the unlicensed person he is supervising was deleted. Other changes are proposed to include language which is more understandable and more enforceable. A new regulation is proposed to ensure that the board has the power to refuse to license or take disciplinary action against the license of a person who has had disciplinary proceedings in another jurisdiction.

Issues:

Issue 1: Supervision of unlicensed support personnel. During the comment period following the Notice of Intended Regulatory Action, the board received several letters requesting clarification on the supervision of support personnel. The employment of unlicensed persons is addressed in the Code of Virginia which permits use of their services as "necessary." Current regulations require that the licensee is fully responsible for the practice of unlicensed support persons, that they be in the same building when services are provided, and that unlicensed persons be identified.

The Speech Hearing Association of Virginia (SHAV) has encouraged the board to eliminate unnecessary barriers to expansion of the number of persons providing services but to develop appropriate guidelines for training, credentialing, and supervision of assistants. In response to their comments and to requests for clarification or new regulations by other licensees, the board considered the following alternatives:

Alternatives considered.

1. Adoption of amendments that would incorporate the guidelines of the American Speech-Language and Hearing Association (ASHA) for supervision of support personnel into the regulations of the board on Standards of Practice. At its meeting in February of 1996, the Legislative Committee of the board recommended adoption of those guidelines in Part IV on Standards of Practice. Amendments to current regulations on supervision would have included 19 specific requirements for licensees who supervise unlicensed support persons. In subsequent meetings, the committee considered other less burdensome amendments and other nonregulatory solutions to the issue of supervision.

2. Adoption of amendments to current regulations that will clarify the expectations for supervision which are the least burdensome but continue to ensure public safety and to protect against the unlicensed practice of

audiology or speech-language pathology. Section 54.1-2601 allows a licensee to employ or use the services of unlicensed persons "as necessary to assist him in his practice." Current regulations require that the supervisor be "fully responsible for the performance and activities of their unlicensed assistants" (18 VAC 30-20-240), that "the identity of the unlicensed assistant shall be in writing and provided to the client prior to treatment," and that it is unprofessional conduct not to be present at all times "within the same building when unlicensed supportive personnel are delivering services" (18 VAC 30-20-280).

- a. SHAV supported current regulations but sought an amendment to permit the licensee to supervise persons who are in the "same facility or facilities to which the supervisor and unlicensed personnel are assigned" rather than in the same building. The board determined that the least restrictive regulation was to eliminate that requirement in 18 VAC 30-20-280 altogether.

- b. The Legislative Committee considered definitions for "direct supervision" and "general supervision" which could be applicable to different situations or levels of training for support personnel. Rather than specifying different levels of supervision, the committee recommended that the board define and clarify supervision as required in 18 VAC 30-20-240. To that end, supervision is defined in terms of the responsibility of the licensee for the service being rendered and for the training and competencies of the unlicensed support person. Rather than specifying where the licensee is located in relation to the unlicensed support person, the definition for supervision specifies that the licensee is available for consultation and providing regular monitoring of clinical activities being performed.

Advantages and disadvantages. There are several advantages of Alternative 2, which was to amend current regulations by the elimination of the burdensome requirement for supervision in the same building and the addition of a definition of supervision.

It is a less stringent regulatory solution than the adoption of extensive guidelines for supervision, as adopted by the national association. By reference to those guidelines in newsletters, the board may be helpful to those licensees seeking more specificity without imposing requirements which may not be reasonable to all audiologists and speech-language pathologists in the settings in which they work.

The deletion of the requirement for supervision in the same building addresses a concern of SHAV and several of the board members who found the regulation overly restrictive and difficult for compliance and enforcement. Instead, the regulatory emphasis is on the individual responsibility of the licensee for the competencies and activities of persons under his supervision. Amended regulations will provide for more flexibility in the practice while assuring that there is an

appropriate level of training and monitoring depending on assigned activities and practice settings.

The disadvantage is that without a "laundry list" of appropriate activities and a specified requirement for the availability of the supervisor to the unlicensed assistant, there may be opportunity for unlicensed or unprofessional practice. However, the board continues to hold the licensee fully responsible for the practice of persons he supervises so there is some accountability and some recourse available in the event a complaint is filed.

Issue 2: Credentialing of unlicensed support personnel. At its meeting in February of 1996, the Legislative Committee of the board recognized that "spiraling costs of health care and education and the increase in managed care systems precludes the exclusive use of a one-on-one service model" with a licensee of the board. Yet access to services must be balanced with quality and competency. The board and the voluntary association have discussed the issue of credentialing or regulating unlicensed support personnel and considered several alternatives:

Alternatives considered.

1. Licensure or certification of support personnel with recognition of credentialing and a specified scope of practice. The board realizes that it does not have statutory authority to adopt this alternative but considered the adoption of amendments to current regulations which would set forth the activities which a licensee would not be able to delegate to unlicensed support personnel under supervision. While the suggested prohibitions followed the guidelines of ASHA for support personnel, there was concern about possible conflict with Virginia's statutory language which permits the use of such persons "as necessary to assist him in his practice" (§ 54.1-2601 of the Code of Virginia). Therefore, the board chose not to propose such amendments but to specify the supervisory responsibility of the licensee.

2. The initiation of a study of the need to license assistants by the Board of Audiology and Speech-Language Pathology with the assistance of the Board of Health Professions. In its study, the board would consult SHAV and ASHA and would study the experience of other states that currently regulate assistants. The board has decided to follow the current Board of Health Professions study on the criteria for regulation as required by § 54.1-2409.2 of the Code of Virginia and has suggested that the association make comments to that study. The board is also inviting interested parties to a round-table discussion of this and other issues which have been raised about the practices of audiology and speech-language pathology.

Advantages and disadvantages. The alternative adopted is the least restrictive and does not impose a new regulatory burden on licensees or support personnel. Amendments do not establish a scope of practice or a list of restricted practices and do not specify the training required to work as

an assistant. The board has not recommended a new regulatory scheme establishing education, credentialing, and standards of practice for support personnel.

Issue 3: Licensure requirements. Currently, the board has several complex sets of requirements for licensure. As the association noted in its comments to the board, "conflicting information has been provided in the past" and "it is important to eliminate any ambiguity." To simplify, clarify and reduce the number of regulations on licensure requirements, the board considered the following:

Alternatives considered.

1. Stipulation that the Certificate of Clinical Competency must be obtained by all applicants prior to the issuance of a license so that the public, the employer and third-party payers are assured that someone who has a license has all necessary training, including the clinical fellowship year. Currently, it is possible for individuals who have completed their education and examination to be licensed prior to the clinical fellowship. Under that alternative, those serving as clinical fellows would continue to be able to work but would not be able to get a license until the year of clinical training had been completed.

2. The issuance of a temporary license to the clinical fellow (CF) was considered and would be acceptable to the board. At the present time, however, there is no statutory authority for a temporary license in audiology or speech-language pathology as in other health professions such as dentistry or medicine. Temporary licensure would facilitate employment of CF's and billing for their services. Without temporary licensure, however, CY's would continue to work with a licensee responsible for their services.

3. The board chose to simplify the licensure requirements but to continue to permit licensure for applicants who have a master's degree from an accredited school and have passed a qualifying examination.

Advantages and disadvantages. Proposed amendments provide consistency and equity in the regulations. There was great concern by graduates who need to be licensed in order to be employed as clinical fellows to complete their requirements for certification by ASHA. Proposed amendments permit licensure of anyone who has current ASHA certification but retains the opportunity for licensure by persons qualified by education and examination.

The requirement for clinical fellows to be supervised is an ASHA requirement and not a regulation of the board.

Estimated Impact:

Number of entities affected by this regulation:

Audiologists	347
Speech-Language Pathologists	1,650

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There are approximately 265 applicants for licensure in either category who may also be affected by these regulations.

Projected cost to the agency: The agency will incur costs (estimated to be \$1,500) for mailings to the Public Participation Guidelines Mailing list and for the conduct of a public hearing in the promulgation of these regulations. However, the board will attempt to incorporate those into anticipated mailings and board meetings already scheduled.

There should be no additional cost for enforcement of these regulations as the standards of practice and unprofessional conduct have been simplified and clarified for ease of compliance.

Projected costs to the affected entities:

Citizen input in development of regulation: In the development of regulations, the board considered comments and recommendations from licensees and from the Speech-Language and Hearing Association of Virginia. A public hearing on proposed regulations will be held during the 60-day comment period.

Benefit to affected entities: The simplification, clarification, and reduction in the number of regulations should make them more understandable and should ease the burden of compliance.

Cost to affected entities: There should be no additional costs associated with proposed regulations. All fees remain unchanged, but the renewal cycle will become biennial rather than annual.

Localities affected: There are no particular localities affected by these regulations in the Commonwealth.

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. The purpose of the proposed amendments is to reduce the complexity and number of regulations, eliminate unnecessary regulation, and clarify licensure requirements and standards of conduct in order to assure the competency of licensees for the health, safety, and welfare of the public.

The substantive amendments include:

1. Requiring a copy of the license to be posted in each facility in which the licensee practices;
2. Change from an annual renewal fee of \$30 to a biennial renewal fee of \$60;
3. Unlicensed assistants shall work only under the supervision of a licensed audiologists or speech pathologists;
4. Redefining supervision to mean being responsible for all actions of unlicensed assistants, available for consultation, and monitoring the activities and competence of supervised personnel;
5. The identity of unlicensed assistants be disclosed to clients prior to treatment.

Estimated economic impact. According to DHP, licensed audiologists and speech-language pathologists who operate in more than one facility can display photocopies of the original license at any of these facilities. The change in the frequency of the annual fee does not change the total amount that has to be paid. These amendments will have no significant economic impact.

The most important amendment is in the redefinition of supervision. Currently, licensees are required to be in the same building as unlicensed assistants. The new regulation removes this requirement and redefines supervision as "responsible for the entire service being rendered or activity being performed, is available for consultation, and is providing regular monitoring of clinical activities and competencies of the person being supervised." Most audiologists and speech-language pathologists often work with the school districts and sometimes assign assistants to various schools. Requiring them to be in the same building is overly restrictive without any clear benefits since it does not influence the performance of the assistants. The new regulation, while it maintains the responsibility of the licensee to clients relaxes an unnecessary restriction that should free up the licensee's time that can be used in other areas. Requiring that patient consent be sought before an unlicensed assistant provides service should not be costly, but eliminates the potential for misunderstanding of the exact nature of the services being offered.

DHP estimates that the cost of this amendments to be about \$1,500 for mailings and to conduct public hearings. They however, will attempt to incorporate these costs into anticipated mailings and board meetings already scheduled.

Businesses and entities affected. The proposed regulation will affect 347 licensed audiologists and 1,650 speech-language pathologists. Also, about 265 applicants for licensure from either category will be affected.

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 use and value of private property 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 fiscal impact analysis of the Department of Planning and Budget.

Summary:

Amendments are proposed pursuant to Executive Order 15 (94) to reduce the size and complexity of the regulation and to greatly simplify the requirements for licensure. Language which was unnecessary or duplicative has been removed, and other language has been clarified by amendment. Standards of conduct and requirements for licensure are set forth to assure the competency of licensees for the health, safety, and welfare of the public.

PART I.
GENERAL PROVISIONS.

Article 1.
Definitions.

18 VAC 30-20-10. Definitions.

The words and terms "audiologist," "board," "practice of audiology," "practice of speech-language pathology," "speech-language disorders," and "speech-language pathologist," when used in this chapter, shall have the meanings ascribed to them in § 54.1-2600 of the Code of Virginia.

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

"Advertisement" means any information disseminated or placed before the public.

"Applicant" means a person applying for licensure by the board.

"Audiologist" means any person who engages in the practice of audiology.

"Board" means the Board of Audiology and Speech Language Pathology.

"Department" means the Department of Health Professions.

"Educational standards board" means the clinical certification board of the American Speech Language and Hearing Association.

"Executive director" means the board administrator for the Board of Audiology and Speech Language Pathology.

"Practice of audiology" means the practice of conducting measurement, testing and evaluation relating to hearing and vestibular systems, including audiologic and electrophysiological measures, and conducting programs of

identification, hearing conservation, habilitation, and rehabilitation for the purpose of identifying disorders of the hearing and vestibular systems and modifying communicative disorders related to hearing loss including but not limited to vestibular evaluation, electrophysiological audiometry and cochlear implants. Any person offering services to the public under any descriptive name or title which would indicate that audiology services are being offered shall be deemed to be practicing audiology.

"Practice of speech-language pathology" means the practice of facilitating development and maintenance of human communication through programs of screening, identifying, assessing and interpreting, diagnosing, habilitating and rehabilitating speech-language disorders including, but not limited to:

1. *Providing alternative communication systems and instruction and training in the use thereof;*
2. *Providing aural habilitation, rehabilitation and counseling services to hearing impaired individuals and their families;*
3. *Enhancing speech language proficiency and communication effectiveness; and*
4. *Providing audiologic screening.*

Any person offering services to the public under any descriptive name or title which would indicate that professional speech language pathology services are being offered shall be deemed to be practicing speech language pathology.

"Speech language disorders" means disorders in fluency, speech articulation, voice, receptive and expressive language (syntax, morphology, semantics, pragmatics), swallowing disorders, and cognitive communication functioning.

"Speech language pathologist" means any person who engages in the practice of speech language pathology.

"Supervision" means that the audiologist or speech-language pathologist is responsible for the entire service being rendered or activity being performed, is available for consultation, and is providing regular monitoring of clinical activities and competencies of the person being supervised.

Article 2.
Legal base.

18 VAC 30-20-20. Legal base. (Repealed.)

The following legal base describes the responsibility of the Board of Audiology and Speech Language Pathology to promulgate regulations governing the licensure of audiologists and speech language pathologists in the Commonwealth of Virginia: Title 54.1:

- Chapter 1 (§§ 54.1-100 through 54.1-114);
- Chapter 24 (§§ 54.1-2400 through 54.1-2402.1);
- Chapter 25 (§§ 54.1-2500 through 54.1-2510); and

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~~Chapter 26 (§§ 54.1-2600 through 54.1-2603) of the Code of Virginia.~~

~~Article 3.
Purpose.~~

~~18 VAC 30-20-30. Purpose. (Repealed.)~~

~~This chapter establishes the standards for training, examination, licensure, and practice of persons as audiologists and speech language pathologists in the Commonwealth.~~

~~Article 4.
Applicability.~~

~~18 VAC 30-20-40. Applicability. (Repealed.)~~

~~Individuals subject to this chapter are (i) audiologists and (ii) speech language pathologists.~~

~~Exemptions: The provisions of this chapter shall not prevent (i) any persons employed by a federal, state, county or municipal agency, or an educational institution as a speech language or hearing specialist or therapist from performing the regular duties of his office or position; (ii) any student, intern, or trainee in audiology or speech language pathology, pursuing a course of study at an accredited university or college, or working in a recognized training center, under the direct supervision of a licensed or certified audiologist or speech language pathologist from performing services constituting a part of his supervised course of study; (iii) a licensed audiologist or speech language pathologist from employing or using the services of unlicensed persons as necessary to assist him in his practice.~~

~~PART II.
OPERATIONAL RESPONSIBILITIES.~~

~~Article 1.
Posting of License.~~

~~18 VAC 30-20-45. Required licenses.~~

~~There shall be separate licenses for the practices of audiology and speech-language pathology. It is prohibited for any person to practice as an audiologist or a speech-language pathologist unless the person has been issued the appropriate license.~~

~~18 VAC 30-20-50. Posting of license.~~

~~Each A licensee shall post his license in a main entrance or place conspicuous to the public in the each facility in which the licensee is practicing employed and holds himself out to practice.~~

~~18 VAC 30-20-60. Availability of license. (Repealed.)~~

~~A licensee shall be able to produce his wallet license upon request.~~

~~Article 2.
Records.~~

~~18 VAC 30-20-70. Records; accuracy of information.~~

~~A. All changes of mailing address or name shall be furnished to the board within five 30 days after the change occurs.~~

~~B. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address on file with the board.~~

~~PART III.
FEES.~~

~~Article 1.
Initial Fees.~~

~~18 VAC 30-20-80. Initial Fees.~~

~~A. The following fees shall be paid as applicable for licensure:~~

1. Application for audiology or speech-language pathology license	\$100
2. Verification of licensure requests from other states	\$20
3. Biennial renewal	\$60
4. Reinstatement fee	\$50
5. Duplicate wall certificates	\$50
6. Duplicate license	\$10
7. Returned check	\$25

~~B. Fees shall be made payable to the Treasurer of Virginia and shall not be refunded once submitted.~~

~~Article 2.
Renewal Fees.~~

~~18 VAC 30-20-90. Renewal fees. (Repealed.)~~

~~The following annual fees shall be paid as applicable for license renewal:~~

Audiology or speech language pathology license renewal	
By December 31, 1996	\$20
By December 31, 1997, and thereafter	\$30

~~Article 3.
Reinstatement Fee.~~

~~18 VAC 30-20-100. Reinstatement fee. (Repealed.)~~

~~In addition to all back renewal fees, the following fee shall be paid for reinstatement of license for each year up to three years following expiration (see 18 VAC 30-20-160):~~

Reinstatement fee per year of expiration	\$50
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Article 4.
Other Fees.

18 VAC 30-20-110. ~~Duplicates. (Repealed.)~~

~~Duplicate wall certificates shall be issued by the board after the licensee submits to the board a signed affidavit that a document has been lost, destroyed, or the applicant has had a name change.~~

~~Duplicate wall certificates _____ \$50.~~

18 VAC 30-20-120. ~~Other fee information. (Repealed.)~~

- ~~A. There shall be a fee of \$25 for returned checks.~~
- ~~B. Fees shall not be refunded once submitted.~~

PART IV II.
RENEWALS RENEWAL AND REINSTATEMENT.

Article 1.
Expiration Dates.

18 VAC 30-20-130. ~~Expiration dates. (Repealed.)~~

~~The following licenses shall expire on December 31 of each calendar year:~~

- ~~1. Audiologist; and~~
- ~~2. Speech language pathologist.~~

18 VAC 30-20-140. ~~Failure to renew. (Repealed.)~~

~~A licensee who fails to renew his license by the expiration date shall have an invalid license.~~

Article 2.
Renewal.

18 VAC 30-20-150. ~~Renewal.~~

~~A. A person who desires to renew his license for the next year shall, not later than the expiration date: 1. December 31 of each odd-numbered year, return the renewal notice and applicable renewal fee; and~~

- ~~2. Notify the board of any changes in name and address.~~

~~B. A licensee who fails to renew his license by the expiration date shall have an invalid license.~~

Article 3.
Reinstatement.

18 VAC 30-20-160. ~~Reinstatement.~~

~~A. When a license is not renewed by the expiration date, the board may consider reinstatement of a license up to three two years of expiration. See 18 VAC 30-20-100. In addition to the back renewal fee, a reinstatement fee as prescribed in 18 VAC 30-20-80 shall be paid.~~

~~B. A licensee who does not reinstate within three two years as prescribed by subsection A of this section shall reapply for licensure as prescribed by Part V III of this chapter and meet the qualifications for licensure in effect at the time of the new application.~~

PART V III.
REQUIREMENTS FOR LICENSURE.

Article 1.
Licensure.

18 VAC 30-20-170. ~~Requirements for licensure.~~

~~The board may grant a license to any an applicant who meets one of the following sets of requirements for licensure:~~

- ~~1. a. Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech-Language Hearing Association. Verification of currency shall be in the form of a certified letter from the American Speech-Language Hearing Association issued within six months prior to licensure; and~~

~~b. Has passed the qualifying examination for the Certificate of Clinical Competence within three years preceding the date of licensure, or has held employment in the area for which he seeks licensure for one of the past three consecutive years or two of the past five consecutive years; or~~

- ~~2. a. Holds a master's degree from a college or university whose audiology and speech-language program is accredited by the Educational Standards Board of the American Speech-Language and Hearing Association or an equivalent accrediting body; and~~

~~b. Has passed a qualifying examination approved by the board. The applicant shall have passed the examination within three years preceding the date of licensure or have been actively engaged in the respective profession during the 24 months immediately preceding the date of application.~~

- ~~1. Endorsement. Any applicant who holds a license from another state or the District of Columbia or has ever been licensed by another state or the District of Columbia shall apply for licensure under this section and may be granted a license by the board when the applicant:~~

~~a. Holds a current unencumbered license from any state or states or the District of Columbia and verifies such on a form prescribed by the board. If the license is not current, documentation shall be provided on a form prescribed by the board of the reason; and~~

~~b. Meets one combination of qualifications prescribed in subdivisions 1 b (1) and 1 b (2) of this section or subdivisions 1 b (3) and 1 b (4) of this section. If the applicant does not meet one of the combinations of qualifications prescribed in this subdivision, the applicant who is or has been licensed in another state or the District of Columbia shall qualify under subdivision 1 c of this section:~~

- ~~(1) Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech-Language~~

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~~Hearing Association. Verification of currency shall be in the form of a certified letter from the American Speech Language Hearing Association issued within six months prior to licensure; and~~

~~(2) Has held employment in the area for which he seeks licensure for one of the past three consecutive years or two of the past five consecutive years; or~~

~~(3) Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech Language Hearing Association. Verification of currency shall be in the form of a certified letter from the American Speech Language Hearing Association issued within six months prior to licensure; and~~

~~(4) Has passed a qualifying examination approved by the board that was taken and passed within three years preceding the date of licensure; or~~

~~c. Meets the requirements of the regulations of the board for licensure of audiologists and speech language pathologists under subdivision 3 of 18 VAC 30-20-170.~~

~~2. Certificate of clinical competence. This subdivision applies to all applicants who are not currently licensed in another state or the District of Columbia or who have not previously been licensed in another state or the District of Columbia. The applicant shall meet one combination of qualifications prescribed in subdivisions 2 a and 2 b of this section or subdivisions 2 c and 2 d of this section. If the applicant does not meet one of the combinations of qualifications prescribed in this subdivision, the applicant shall qualify under subdivision 3 of 18 VAC 30-20-170. The board may grant a license if the applicant:~~

~~a. Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech Language Hearing Association. Verification of currency shall be in the form of a certified letter from the American Speech Language Hearing Association issued within six months prior to licensure; and~~

~~b. Has held employment in the area for which he seeks licensure for one of the past three consecutive years or two of the past five consecutive years; or~~

~~c. Holds a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech Language Hearing Association issued within six months prior to licensure; and~~

~~d. Has passed a qualifying examination approved by the board that was taken and passed within three years preceding the date of licensure; or~~

~~e. Meets the requirements of the board for licensure of audiologists and speech language pathologists under subdivision 3 of 18 VAC 30-20-170.~~

~~3. Education and examination.~~

~~a. Examination. The applicant shall pass a qualifying examination approved by the board. The examination shall have been passed within three years preceding the date of licensure. Exception: No further examination will be required for applicants having passed the board approved examination at any time prior to licensure if they have been actively engaged in the respective profession during the 24 months immediately preceding the date of application.~~

~~b. Degree and coursework equivalency.~~

~~(1) Degree. The applicant shall hold a Master's degree or its equivalent from a college or university whose audiology and speech language program is accredited by the Educational Standards Board of the American Speech Language and Hearing Association or an equivalent accreditation.~~

~~(2) Coursework (all candidates). The applicant shall have completed at least 75 semester hours of coursework. Twenty seven of the 75 semester hours shall be in basic science and 36 of the 75 semester hours shall be in professional coursework. See Appendices I and II.~~

~~(3) Supervised clinical experience (all candidates).~~

~~(a) The applicant shall complete 375 clock hours of supervised clinical observation and supervised clinical practicum combined. The clock hours of supervised clinical experience shall be provided by a college or university whose audiology and speech language pathology program is accredited by the Educational Standards Board of the American Speech Language and Hearing Association or an equivalent accreditation. See Appendix III.~~

~~(b) The supervision for the practicum and observation shall be provided by a person who is licensed by the board in the appropriate area of practice.~~

~~4. Clinical observation. Twenty five of the 375 clock hours (see 18 VAC 30-20-170-3-b(3)) shall be in clinical observation prior to beginning clinical practicum.~~

~~5. Clinical practicum. Three hundred fifty of the 375 clock hours (see 18 VAC 30-20-170-3-b(3)) shall be in a clinical practicum. At least 250 of those 350 clock hours shall be in clinical hours at the graduate level in the area in which the license is sought. At least 50 of the 350 clock hours shall be in each of three types of clinical settings such as, but not limited to, public schools, private practice, free clinic, hospital setting.~~

~~For a specific breakdown of the clinical clock hours required for both speech language and audiology applicants, see Appendix III.~~

~~Article 2.
Application Process.~~

~~18 VAC 30-20-180. Application process.~~

~~A. Prior to seeking licensure as an audiologist or speech language pathologist, an applicant shall submit:~~

- ~~1. A completed and signed application;~~
- ~~2. The applicable fee prescribed in 18 VAC 30-20-80; and~~
- ~~3. Additional documentation as may be required by the board to determine eligibility of the applicant.~~

~~B. An incomplete application package shall be retained by the board for a period of one year.~~

~~18 VAC 30-20-190. Incomplete applications. (Repealed.)~~

~~All required parts of the application shall be submitted at the same time. An incomplete application package shall be returned.~~

~~Exception: Some schools require that certified transcripts be sent directly to the licensing authority. That policy is acceptable to the board.~~

~~National examination scores also will be accepted from the examining authority.~~

PART VI /V.
STANDARDS OF PRACTICE.

~~Article 1.
General.~~

~~18 VAC 30-20-200. General. (Repealed.)~~

~~There shall be separate licenses for the practice of audiology and speech language pathology.~~

~~18 VAC 30-20-210. Unauthorized practice. (Repealed.)~~

~~It is prohibited for any person to practice as an audiologist or speech language pathologist unless such person has been issued a license in the appropriate classification.~~

~~18 VAC 30-20-220. Titles reserved. (Repealed.)~~

~~The titles of audiologist and speech language pathologist shall be reserved under law for the use by licensed practitioners only.~~

~~18 VAC 30-20-240. Core of knowledge Supervisory responsibilities; supervision of unlicensed assistants.~~

~~Every A. A licensed audiologist and speech language pathologist shall provide supervision to unlicensed assistants, shall be held fully responsible for the his performance and activities of their unlicensed assistants, and shall ensure that he performs only those activities which do not constitute the practice of audiology or speech language~~

~~pathology and which are commensurate with his level of training.~~

~~B. The identity of the unlicensed assistant shall be disclosed in writing and provided to the client prior to treatment. The disclosure shall be made a part of the client's file and shall be signed by the client or the client's representative.~~

~~Article 2.
Core of Knowledge.~~

~~18 VAC 30-20-250. Demonstration of skills. (Repealed.)~~

~~An audiologist and speech language pathologist shall be able to demonstrate knowledge, skills, and abilities as relevant to his specific practice in the following areas:~~

- ~~1. Psychological and sociological aspects of human development;~~
- ~~2. Anatomical, physiological, neurological, psychological, and physical bases of speech, voice, hearing and language;~~
- ~~3. Genetic and cultural aspects of speech and language development;~~
- ~~4. Current principles, procedures, techniques, and instruments used in evaluating the speech, language, voice, and hearing of children and adults;~~
- ~~5. Various types of disorders of speech, language, voice, and hearing classifications, causes and manifestations;~~
- ~~6. Principles, remedial procedures, hearing aids, tinnitus devices, and other instruments used in the habilitation and rehabilitation for those with various disorders of communication;~~
- ~~7. Relationships among speech, language, voice, and hearing problems, with particular concern for the child or adult who presents multiple problems;~~
- ~~8. Organization and administration of programs designed to provide direct service to those with disorders of communications;~~
- ~~9. Theories of learning and behavior in their application to disorders of communication;~~
- ~~10. Services available from related fields for those with disorders of communication; and~~
- ~~11. Effective use of information obtained from related disciplines about the sensory, physical, emotional, social, and intellectual status of a child or an adult.~~

~~18 VAC 30-20-260. Additional skill requirements; audiologist. (Repealed.)~~

~~In addition, the audiologist shall be able to demonstrate knowledge, skills, and abilities relevant to the specific practice as follows:~~

- ~~1. Conducting evaluation of the function of the auditory and vestibular systems, including the use of~~

Proposed Regulations

~~electrophysiological techniques and the evaluation of tinnitus;~~

~~2. Evaluation of auditory processing; and~~

~~3. Principles, procedures, and techniques of organizing and administering industrial hearing conservation programs, including noise surveys, the use of hearing protective devices, and the training and supervising of audiometric technicians.~~

~~18 VAC 30-20-270. Additional skill requirements; speech language pathologist. (Repealed.)~~

~~In addition, the speech language pathologist shall be able to demonstrate knowledge, skills, and abilities relevant to the specific practice in the following:~~

~~1. Evaluation and treatment of disorders of the oral and pharyngeal mechanism as they relate to communication, including but not limited to dysphagia; and~~

~~2. Use of alternative communication devices and appliances facilitating communication.~~

~~PART VII.~~

~~REFUSAL, SUSPENSION, REVOCATION, AND DISCIPLINARY ACTION.~~

~~Article 4.~~

~~Unprofessional conduct.~~

~~18 VAC 30-20-280. Unprofessional conduct.~~

~~The board may refuse to issue a license or approval to any applicant, and may suspend a license for a stated period of time or indefinitely, or revoke any license or approval, or reprimand any person, a licensee or place his license on probation with such terms and conditions and for such time as it may designate, or impose a monetary penalty, or revoke a license for any of the following causes:~~

~~1. Guaranteeing Guarantee of the results of any speech, voice, language, or hearing consultative or therapeutic procedure;~~

~~2. Diagnosis or treatment of speech, voice, language, and hearing disorders solely by written correspondence, provided this shall not preclude:~~

~~a. Follow-up written correspondence of concerning individuals previously seen; or~~

~~b. Providing the persons served professionally patients with general information of an educational nature.~~

~~3. Revealing to unauthorized persons Disclosure of confidential patient information obtained from the individual he serves professionally to unauthorized persons without the permission of the individual served patient unless otherwise authorized by law;~~

~~4. Exploitation of persons served professionally patients by accepting them for treatment when benefit cannot~~

~~reasonably be expected to occur, or by continuing treatment unnecessarily;~~

~~5. Incompetence or negligence in the practice of the profession as well as failure to disclose use and identity of unlicensed assistants (see 18 VAC 30-20-250). The disclosure and the identity of the unlicensed assistant shall be in writing and provided to the client prior to treatment. The disclosure shall be made a part of the client's file and shall be signed by the client or the client's representative;~~

~~6. Failing to recommend a physician consultation and examination for any communicatively impaired person (before the fitting of a new or replacement prosthetic aid on such person) not referred or examined by a physician within the preceding six months Failure to comply with applicable state and federal statutes or regulations specifying the consultations and examinations required prior to the fitting of a new or replacement prosthetic aid for any communicatively impaired person;~~

~~7. Failing Failure to refer a client to a physician when there is evidence of an impairment that might respond to medical treatment. Exception: This would not include communicative disorders of nonorganic origin an appropriate health care practitioner when there is evidence of an impairment for which assessment, evaluation, care or treatment might be necessary;~~

~~8. Failing Failure to supervise persons who assist them in the practice of speech-language pathology and audiology without being present at all times within the same building when unlicensed supportive personnel are delivering services as well as failure to disclose the use and identity of unlicensed assistants;~~

~~9. Conviction of a felony related to the practice for which the license is granted or a misdemeanor involving moral turpitude;~~

~~10. Failure to comply with federal, state, or local laws and regulations governing the practice of audiology and speech-language pathology;~~

~~11. Failure to comply with any regulations of the board;~~

~~12. Inability to practice with skill and safety because of physical, mental, or emotional illness, or substance abuse;~~

~~13. Making, publishing, disseminating, circulating, or placing before the public, or causing directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public which contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading material misrepresentation in the course of practice;~~

~~14. Exceeding the scope of practice; and~~

~~15. 14. Aiding and abetting unlicensed activity; or~~

15. Revocation, suspension, restriction or any other discipline of a license or certificate to practice or surrender of license or certificate while investigation or administrative proceedings are pending in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

APPENDIX I.

Basic Science Coursework.

A Master's degree or its equivalent from a college or university whose audiology and speech language program is accredited by the Educational Standards Board of the American Speech Language and Hearing Association or an equivalent accreditation is required.

The applicant shall have completed at least 75 semester hours of coursework.

1. Basic science coursework. At least 27 of the 75 semester hours shall be in basic science coursework as follows:

- a. Six semester hours in biological/physical sciences and mathematics;
- b. Six semester hours in behavioral and/or social sciences; and
- c. Fifteen semester hours in basic human communication processes to include the anatomic and physiologic basis, the physical and psychophysical bases, and the linguistic and psycholinguistic aspects.

APPENDIX II.

Professional Coursework.

A Master's Degree or its equivalent from a college or university whose audiology and speech language program is accredited by the Educational Standards Board of the American Speech Language and Hearing Association or an equivalent accreditation is required.

The applicant shall have completed at least 75 semester hours of coursework which includes basic science coursework (see Appendix I) and professional coursework. At least 36 of the 75 semester hours shall be in professional coursework.

A. Speech and language candidates.

1. At least 30 of the 36 semester hours of professional coursework shall be in courses for which graduate credit was received.

- a. Six of the 30 semester hours of graduate credit shall be required in audiology.
 - (1) Three semester hours in hearing disorders and hearing evaluation; and
 - (2) Three semester hours in habilitative/rehabilitative procedures.

b. At least 21 of the 30 semester hours of graduate credit shall be in the professional area in which licensure is sought.

- (1) Six semester hours in speech disorders;
- (2) Six semester hours in language disorders; and
- (3) Nine semester hours in electives in speech and language.

c. Three of the 30 semester hours of graduate credit may be electives in speech, language or audiology graduate study.

2. Six of the 36 semester hours of professional coursework may be at the undergraduate level.

B. Audiology candidates.

1. At least 30 of the 36 semester hours of professional coursework shall be in courses for which graduate credit was received.

a. At least 6 of the 30 graduate credits shall be required in speech language pathology, not associated with hearing impairment, as follows:

- (1) Three semester hours in speech disorders; and
- (2) Three semester hours in language disorders.

b. At least 21 of the 30 semester hours shall be in the professional area in which licensure is sought:

- (1) Six semester hours in hearing disorders and hearing evaluation;
- (2) Six semester hours in habilitative/rehabilitative procedures; and
- (3) Nine semester hours in electives in audiology.

c. Three of the 30 semester hours prescribed above shall be electives in an area of graduate credit (audiology, speech, or language).

2. Six of the 36 semester hours of professional coursework may be at the undergraduate level.

APPENDIX III.

Clinical Practicum.

The applicant shall complete 375 clock hours of supervised clinical observation (25 hours) and supervised clinical practicum (350 hours) combined.

The applicant shall gain experience by working in at least three types of clinical settings such as, but not limited to, public schools, private practice, nursing homes, free clinics, hospital settings, etc. At least 50 hours shall be served in each of the three types of settings. (See subdivision 5 of 18 VAC 30-20-170)

A. Speech and language candidates.

Proposed Regulations

1. For the clinical practicum, 250 of the 350 clock hours shall be at the graduate level in the area in which the license is sought.

a. At least 160 of the 250 graduate clock hours shall be in each of the following eight categories:

- (1) Twenty clock hours in evaluation: speech disorders in children;
- (2) Twenty clock hours in evaluation: speech disorders in adults;
- (3) Twenty clock hours in evaluation: language disorders in children;
- (4) Twenty clock hours in evaluation: language disorders in adults;
- (5) Twenty clock hours in treatment: speech disorders in children;
- (6) Twenty clock hours in treatment: speech disorders in adults;
- (7) Twenty clock hours in treatment: language disorders in children; and
- (8) Twenty clock hours in treatment: language disorders in adults.

b. Up to 20 of the 250 graduate clock hours shall be in related disorders in the major professional area.

c. At least 35 of the 250 graduate clock hours shall be in audiology.

- (1) Fifteen clock hours in evaluation/screening.
- (2) Fifteen clock hours in habilitation/rehabilitation.
- (3) Five clock hours in audiology electives.

d. Thirty five of the 250 graduate clock hours shall be in electives if desired or additional hours work may be taken under subdivisions 1 a and 1 c above.

2. One hundred of the 350 graduate clock hours may be at the undergraduate level.

B. Audiology candidates:

1. For the clinical practicum, 250 of the 350 clock hours shall be at the graduate level in the area in which the license is sought.

a. At least 160 of the 250 graduate clock hours shall be in the following:

- (1) Forty clock hours in evaluation: hearing in children;
- (2) Forty clock hours in evaluation: hearing in adults;
- (3) Forty clock hours in selection and use: amplification and assistive devices for children; and
- (4) Forty clock hours in selection and use: amplification and assistive devices for adults.

b. At least 20 of the 250 graduate clock hours shall be in treatment: hearing disorders in children and adults.

c. Up to 20 of the 250 graduate clock hours shall be in related disorders in the major professional area.

d. At least 35 of the 250 graduate clock hours shall be in speech language pathology unrelated to hearing impairment as follows:

- (1) Fifteen graduate clock hours in evaluation/screening;
- (2) Fifteen graduate clock hours in treatment; and
- (3) Five graduate clock hours in electives.

e. Fifteen of the 250 graduate clock hours shall be in electives if desired or additional course work may be taken under subdivisions 1 a through 1 c above.

2. One hundred of the 350 clock hours may be at the undergraduate level.

FORMS

Application for Licensure for Audiologist and Speech Language Pathologists.

Endorsement Certification Form.

Renewal Notice.

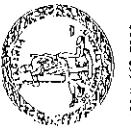
Licensure Reinstatement.

Application for Licensure, 7/97.

Licensure Reinstatement Application, 7/97.

Endorsement Certification Form, 7/97.

Renewal Notice, 7/97.



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
 6606 W. BROAD STREET, 4TH FLOOR
 RICHMOND, VIRGINIA 23230-1717

(804) 662-7390

APPLICATION FOR LICENSE

FEES: \$100 Check or money order must accompany this application. Applicants received without the appropriate fee will be returned to applicant. Make check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.
 (Check the box that pertains to the type of license that you are seeking.)
 Audiology Speech-Language Pathology

DISCLOSE YOUR SOCIAL SECURITY OR VIRGINIA DRIVER CONTROL NUMBER. In accordance with § 54-2-10 of the Code of Virginia, you are required to submit your Social Security Number and fees will not be refunded. This number will be used by the Department of Motor Vehicles for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with certain agencies for child support enforcement activities. NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS. In order to obtain a Virginia driver's license control number, it is necessary to be in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

I. IDENTIFYING INFORMATION: Name in full (please type or print)

LAST	FIRST	MIDDLE
HOME ADDRESS	CITY	STATE
DATE OF BIRTH	SOCIAL SECURITY NUMBER	DRIVER'S LICENSE & TELEPHONE NUMBER

H. HOW DO YOU QUALIFY FOR LICENSEURE: (Check the way in which you are applying for licensure). Check one (even though you may qualify for more than one).

ENDORSEMENT: _____ CERTIFICATE OF CLINICAL COMPETENCE _____ EDUCATION _____

III. PROFESSIONAL LICENSURE IN ANOTHER JURISDICTION: If you are currently licensed or have been licensed in another jurisdiction, please list the information below and complete the licensure verification form for each, and forward it to the jurisdiction you have indicated. Use additional sheets if necessary on the back.

JURISDICTION	DATE OF INITIAL EXAMINATION

IV. CERTIFICATE OF CLINICAL COMPETENCE (if applicable provide its certified letter from ASHA):

Yes No I am currently certified with ASHA as having my certificate of clinical competence.

V. EDUCATION:

1. UNDERGRADUATE SCHOOL	STATE
ADDRESS	CITY
DATE OF GRADUATION	DEGREE EARNED
2. GRADUATE SCHOOL	STATE
ADDRESS	CITY
DATE OF GRADUATION	DEGREE EARNED

VI. REQUIRED DOCUMENTATION: The following documents must be on file or received in the Board's office before the application will be processed. Please provide to applicant's office.

Graduate transcript must state that the degree was conferred.	ATTACHED	ON FILE WITH BOARD OFFICE	OTHER: Explain
Certified Certificate of Clinical Competence (ASHA)			
Certified Undergraduate and Graduate transcript			
Certified Clock hour indicating 375 hours			
Certified National Board scores			
Verification of employment			

VII. AFFIDAVIT

1. Have you ever been convicted of any criminal offense other than those on file with the Board? Yes No If yes, explain: _____

2. Have you ever had a license to practice audiology or speech-language pathology type _____ voluntarily surrendered _____ placed on probation _____ revoked _____ or have you been otherwise found in violation of laws of any Board that regulates audiology or speech-language pathology? Yes No If yes, explain: _____

VIII. AFFIDAVIT (to be completed in the presence of a Notary Public)

I, _____ of _____ County, City of _____, am applying to be licensed to practice Audiology or Speech-Language Pathology in the Commonwealth of Virginia. I will, at all times, abide by the laws of the Commonwealth and the Regulations of the Board of Audiology and Speech-Language Pathology governing such practice. I understand that should I violate any of these laws or regulations, this action may be taken against my license by the Board.

I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19____.

My Commission expires: _____

 Notary Public



SEAL

 Signature of Applicant

FOR OFFICE USE ONLY

APPROVED DATE _____

LICENSE NUMBER _____

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE
PATHOLOGY
 6606 W. BROAD STREET, 4TH FLOOR
 RICHMOND, VIRGINIA 23220-1717

(804) 662-7390

LICENSURE REINSTATEMENT APPLICATION

Check or money order must accompany this application. Applications received without the appropriate fees will be returned to applicant. May check or money order payable to the Treasurer of Virginia. ALL FEES ARE NON-REFUNDABLE.

DISCLOSE YOUR SOCIAL SECURITY OR VIRGINIA ONLY CONTROL NUMBER. In accordance with § 54.1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded. This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes, except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement acts only. **NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.** * In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.

I. IDENTIFYING INFORMATION: Name in full (please type or print)

LAST	FIRST	MIDDLE NAME	
HOME ADDRESS	CITY	STATE	ZIP CODE
DATE OF BIRTH	SOCIAL SECURITY NUMBER	AREA CODE & TELEPHONE NUMBER	

II. APPLICATION INFORMATION: Check all that apply

Renewal of audiology license (\$50 per year of expiration, plus book renewal fees)
 Renewal of speech-language pathology license (\$50 per year of expiration, plus book renewal fees)

III. LICENSE INFORMATION: Name at the time of initial licensure

LAST	FIRST	MIDDLE NAME
FORMER LICENSE NUMBER	EXPIRATION DATE	

IV. EMPLOYMENT HISTORY: Please list all employers since expiration date. If more space is needed, please provide attachments.

FACILITY NAME	CITY/STATE/ZIP CODE
JOB RESPONSIBILITIES	DATE OF EMPLOYMENT
FACILITY NAME	CITY/STATE/ZIP CODE
JOB RESPONSIBILITIES	DATE OF EMPLOYMENT
FACILITY NAME	CITY/STATE/ZIP CODE
JOB RESPONSIBILITIES	DATE OF EMPLOYMENT

V. IMPAIRED PRACTICE:

A. Have you ever been convicted of any criminal offense other than minor traffic violations? Yes No If yes, please explain:

B. Have you ever had a license lapse, voluntarily surrendered, placed on probation, suspended, revoked, or have been otherwise disciplined, or ever been the subject of an investigation by any Board that regulates audiology and speech-language pathology? Yes No If yes, please explain:

VI. AFFIDAVIT (To be completed in the presence of a Notary Public)

State of _____ County/City of _____

I, _____, am applying to be licensed to practice Audiology or Speech-Language Pathology in the Commonwealth of Virginia. I will, at all times, abide by the laws of the Commonwealth and Regulations of the Board of Audiology and Speech-Language Pathology governing such practice. I understand that should I violate any of these laws or regulations, that action may be taken against my license by the board.

I hereby certify that all statements contained in this application, and all representations and documents presented by me in connection with this application are true and correct.

Signature of Applicant _____

Notary Public _____

SEAL

Submitted and sworn to before me this _____ day of _____, 19____

My Commission expires _____

FOR OFFICE USE ONLY

APPROVED _____
DATE _____

LICENSE NUMBER _____

Department of Health Professions
COMMONWEALTH OF VIRGINIA

RENEWAL NOTICE AND APPLICATION

Telephone:
License, certificate or registration number:

TYPE OF LICENSE	EXPIRATION DATE	CURRENT AMOUNT DUE \$	RENEWAL PERIOD FROM TO	AMOUNT DUE IF RECEIVED AFTER \$
-----------------	-----------------	-----------------------	------------------------	---------------------------------

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"
RETURN PAYMENT AND THE COMPLETED BOTTOM PORTION ONLY IN THE ENCLOSED ENVELOPE
KEEP TOP PORTION FOR YOUR RECORDS

<p>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER</p> <p>In accordance with § 51-1-16 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded.</p> <p>The number will be used by the Department of Health Professions for identification and will not be shared with other agencies except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities.</p> <p>If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If it contains no certain numbers, please verify that they are correct and make any necessary changes.</p> <p>NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.</p> <p><small>To order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.</small></p>	<p>INSTRUCTIONS</p> <ol style="list-style-type: none"> Verify Social Security or Virginia DMV Control Number at left. Complete item "A" below if you do not wish to renew. Make any address changes on this application when renewing. Make any name changes on this application and enclose a copy of your marriage license or court order. Note name and license, certificate or registration number on all enclosures. Return the bottom portion of this application in the enclosed envelope. <p>A. <input type="checkbox"/> Check here if you <u>do not</u> wish to renew, and sign below.</p> <p>Signature _____</p>
---	---

THIS BOTTOM PORTION MUST BE RETURNED IN ORDER TO RENEW

Department of Health Professions
Type of renewal:
License, certificate or registration number:

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF HEALTH PROFESSIONS
BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

6605 W. 8600 STREET, 4TH FLOOR
RICHMOND, VIRGINIA 23230-1717

ENDORSEMENT CERTIFICATION FORM
(804) 662-7390

7/97

Sections III-VI: To be completed by applicant.
Sections I-II: To be completed by State Board and returned to the Virginia Board of Audiology and Speech-Language Pathology

I. IDENTIFYING INFORMATION: Name in full (please type or print)	
LAST	FIRST
MIDDLE NAME	INITIALS
CITY	STATE
ZIP CODE	AREA CODE & TELEPHONE NUMBER
PHONE NUMBER	AREA CODE & TELEPHONE NUMBER
DATE OF BIRTH	DMV CONTROL NUMBER
SOCIAL SECURITY NUMBER	OR
DMV CONTROL NUMBER	

II. DISCLOSURE OF INFORMATION

I hereby authorize the release of the following information to the Virginia Board of Audiology and Speech-Language Pathology and authorize the Board to secure additional information concerning me or any statement in this application, from any person or source the Board may require. I, further agree to submit to questioning by the Board or any member or agent thereof, and to substantiate any statement to the Board or its agent as it deems necessary.

Signature of Applicant _____ Date _____ Name of State _____

III. STATE BOARD INFORMATION: (To be completed by the office of the State Board where your license was obtained)	
III. IDENTIFYING INFORMATION OF APPLICANT: Name in full (please type or print)	
LAST	FIRST
MIDDLE	MIDDLE
INITIALS	EXPIRATION DATE
TYPE OF LICENSE	
IV. HOW DID THE APPLICANT QUALIFY FOR LICENSE: Reciprocity _____ Endorsement _____ or as a primary (original) license _____	
V. STATUS OF LICENSE: Current _____ Inactive _____ Expiration Date _____	
VI. STANDING OF LICENSE Has this license ever been suspended, revoked, or otherwise disciplined? Yes ___ No ___ Is there a probationary period in force? Yes ___ No ___ If yes, to any item, please attach an explanation.	

I certify that the information contained in this Endorsement Certification Form is true in every respect in accordance with the records on file with: _____ State and Official Name of Board _____

Executive Officer _____
Title _____
Date _____

SEAL

Proposed Regulations

BOARD OF GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 3 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4 VAC 15-260-10 et seq. **Game:** Waterfowl and Waterfowl Blinds (amending 4 VAC 15-260-140).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Notice to the Public:

The Board of Game and Inland Fisheries has ordered to be published, pursuant to §§ 29.1-501 and 29.1-502 of the Code of Virginia, the following proposed amendment to a board regulation. A public comment period on the proposed regulation opened August 21, 1997, and remains open until October 23, 1997. Comments submitted must be in writing; must be accompanied by the name, address and telephone number of the party offering the comments; should state the regulatory action desired; and should state the justification for the desired action. Comments should be sent to Phil Smith, Policy Analyst and Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia 23230, and received no later than October 16, 1997, in order to be assured that the board will have opportunity to review them before taking final action.

A public hearing on the advisability of adopting, or amending and adopting, the proposed regulation or any parts thereof will be held during a meeting of the board to take place at the Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, Virginia, beginning at 9 a.m. on Thursday, October 23, 1997, at which time any interested citizen present shall be heard.

If the board is satisfied that the proposed regulation, or any parts thereof, are advisable in the form in which published or as amended after receipt of the public's comments, the board may adopt regulation amendments as final at the October 23(-24) meeting. The regulation or regulation amendments adopted may be either more liberal or more restrictive than that proposed and being advertised under this notice.

Summary:

The proposed amendment adds tungsten-iron shot as a permissible nontoxic shot for use in waterfowl hunting if such shot is permissible under federal migratory waterfowl regulations.

4 VAC 15-260-140. Steel Nontoxic shot required for waterfowl hunting effective 1994-95.

~~Effective with the 1994-95 waterfowl hunting season, it shall be unlawful to take or attempt to take ducks, geese (including brant), swans or coots while possessing shotshells loaded with shot other than steel or, bismuth-tin or tungsten-~~

~~iron shot if such shot is permissible under federal migratory waterfowl laws regulations.~~

VA.R. Doc. No. R97-752; Filed August 27, 1997, 11:09 a.m.

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-220-10 et seq. **Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (amending 12 VAC 5-220-10, 12 VAC 5-220-150, 12 VAC 5-220-180, 12 VAC 5-220-200, 12 VAC 5-220-230, 12 VAC 5-220-280, 12 VAC 5-220-290, 12 VAC 5-220-385 and 12 VAC 5-220-500; adding 12 VAC 5-220-105).**

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Public Hearing Date: N/A -- Public comments may be submitted until 5 p.m. on November 14, 1997.

(See Calendar of Events section for additional information)

Basis: The statutory authority for promulgating the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (the COPN Regulations) is found in §§ 32.1-12 and 32.1-102.2 of the Code of Virginia, as amended in 1996 and 1997.

Section 32.1-12 of the Code authorizes the Board of Health to "make, adopt, promulgate and enforce such regulations ... as may be necessary to carry out the provisions of [Title 32.1, Health, of the Code of Virginia] and other laws of the Commonwealth administered by it, the Commissioner or the Department."

Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 is the Virginia statute establishing the requirement for certificates of public need at medical care facilities. Section 32.1-102.2 authorizes the Board of Health to "promulgate regulations which are consistent with this article and ... establish procedures for the review of applications for certificates consistent with the provisions of this article."

Purpose: The proposed amendments to the COPN regulation are in response to changes in the COPN law, House Bill 1194, which became effective July 1, 1996, amended §§ 32.1-102.1 and 32.1-102.2 of the Code of Virginia so that hospitals that have a need to replace equipment will be able, in some cases, to replace such equipment without first seeking review of a COPN request by the Virginia Department of Health. Additionally, miscellaneous capital expenditures by existing medical care facilities between one and five million dollars, which formally required COPN authorization, will no longer need such approval. House Bill 2016, effective March 20, 1997, amended § 32.1-102.1 of the Code of Virginia to clarify that nuclear medicine imaging equipment is the regulated service rather than "single photon emission computed tomography" equipment and to eliminate COPN regulation of the addition or replacement of nuclear medicine imaging equipment. An additional amendment to the regulation includes specific

regulatory language that should eliminate the need for an administrative hearing in many cases where one is not warranted. These amendments eliminate COPN regulation of a substantial portion of existing hospital equipment making it easier for Virginia hospitals to replace equipment, thereby making it easier for Virginia hospitals to maintain state of the art medical technology for their service area population.

Substance: The proposed amendments bring the regulations into conformance with the statutory:

1. Minimum COPN application fee of \$1,000;
2. Exemption from COPN regulation of certain medical equipment projects and the statutory expenditure review threshold for miscellaneous capital expenditures of \$5 million;
3. Definition of "medical care facility." The definition now applies unambiguously to facilities, whether licensed or not licensed, and any facility licensed as a hospital is subject to COPN regulation; and
4. Scope of COPN regulation in nuclear medicine imaging. "Nuclear medicine imaging" equipment (Anger or "gamma" cameras) rather than "single photon emission computed tomography" equipment is identified as a category of regulated equipment and the addition or replacement of nuclear medicine imaging equipment is deregulated.

In addition, the amendments:

1. Establish a maximum application fee of \$20,000;
2. Authorize the State Health Commissioner to condition the waiver of COPN requirements for emergency replacement of equipment on agreement by the provider to provide free or reduced-rate care for indigent persons; and
3. Modify the way in which "good cause" petitions will be handled in the COPN review process.

Issues: The COPN regulations, adopted to carry out the COPN law, have always been and will continue to be criticized by certain interests, since they define the manner in which the state is involved in the capital investment decisions of medical care facilities. Promulgation of the regulations is the only means available for the Virginia Department of Health to comply with the requirements of the COPN law. The regulations are directly derived from statute or are necessary to assure that informed decisions can be made by the Department of Health in an orderly fashion that preserves due process for applicants and all other parties involved.

The primary advantage to the public of the proposed amendments is to bring the COPN Regulations into conformance with amendments to the COPN law, which reduce certain regulatory burdens thereby creating opportunities for savings at medical care facilities. An additional amendment to the regulation includes specific regulatory language, proposed by an interested party, that

addresses the way in which "good cause" petitions will be handled.

House Bill 1194 (1996) signed by the Governor last year lifted a substantial regulatory burden from the regulated industry by reducing the scope of the COPN program. The legislation eliminated the need to apply for a COPN for replacement of major medical equipment after first replacement, i.e., the legislation exempted from COPN regulation those units of equipment which previously received COPN authorization as replacement equipment. This immediately reduced COPN regulation of many units of medical equipment authorized as replacement equipment between 1973 and 1996 and will eventually eliminate regulatory requirements on several hundred units of medical equipment subject to the previous provisions of the law. The legislation also increased the regulatory threshold for miscellaneous capital spending by or on behalf of medical care facilities to \$5 million from \$1 million. This has already reduced the regulated number of smaller capital expenditures by hospitals and nursing homes that do not involve changes in services or capacities by 10 projects since July 1, 1996.

The legislation also broadened the authority of the State Health Commissioner to condition COPN decisions on certain assurances advantageous to the public. Previously, he could only condition approved projects. The regulations authorize conditioning decisions to waive COPN review for emergency medical equipment replacements on the provision of reduced rate care to indigents and care for special populations.

In addition, HB 1194 established a minimum application fee of \$1,000 and authorized an increase in the maximum application fee from \$10,00 to \$20,000. A new fee schedule that incorporates this new maximum is proposed to defray the drop in revenue created by the deregulatory initiatives. The COPN program became self-supporting in 1994 when general fund appropriations for the program were eliminated.

Finally, HB 1194 modified the definition of "medical care facility" in two ways. First, in response to a circuit court decision (which was recently repudiated by the Virginia Court of Appeals), the definition clarifies that "medical care facilities" include licensed facilities such as hospitals and nursing homes, and unlicensed facilities such as freestanding imaging centers. Additionally, the term "any facility licensed as a hospital" was added to the list of medical care facility types subject to COPN regulation. This clarifies that all licensed hospitals in Virginia are subject to COPN regulation no matter what licensure classification they fall under in medical care facilities licensure law, Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia and the regulations derived from that licensure law.

House Bill 2016 (1997), signed by the Governor on March 20, 1997, amends the definition of "project" in the COPN statute by replacing the term "single photon emission computed tomography" (SPECT) with "nuclear medicine imaging" and eliminating the requirement to obtain a COPN to add or replace nuclear medicine imaging equipment, a standard diagnostic imaging modality for general hospitals. This area

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of COPN regulation has not been directly productive in reducing capital investment in SPECT imaging facilities, although it has probably had a "chilling effect" on investment in nonhospital settings for this type of imaging. The changes more appropriately focus COPN regulation on the proliferation of a category of equipment, Anger or "gamma" cameras, rather than on the routine provision of a category of imaging service, SPECT, which is provided by most such cameras. Continued COPN regulation of the addition or replacement of nuclear medicine imaging equipment, which is primarily located in the general hospital setting, is not cost effective. COPN regulation of positron emission tomography (PET), a more expensive and specialized form of nuclear medicine imaging, remains unchanged.

The department received, as a comment, proposed language addressing the "inconsistency between the COPN law and the regulations with respect to persons seeking to show good cause. Where no informal fact-finding conference (IFFC) would be held, but for the request of a person seeking to show good cause, no hearing should be required unless good cause is in fact proven." The proposed language seeks to place a greater onus on the good cause petitioner to justify their claim of good cause. Under the current language of the regulation, a person may object to an application for which an IFFC would not otherwise be convened simply by citing the "good cause" language of subsection D of § 32.1-102.6, thereby forcing the convening of an IFFC, when, in reality, no reasonably documentable basis for the good cause petition may exist. In practice, this has tended to place project proponents in the position of having to come to such IFFCs prepared not only to rebut any good cause claim of an opponent, but also to place on the record an affirmative case for approval of their projects in case the good cause petitioner is successful. This adds time and expense to the process of reaching a final decision on projects. The proposed language requires that a petition based on a demonstration of factual assertions be filed, within 10 days of the department staff's recommendation on a project. If there is no apparent factual basis for good cause, as determined by the department, there would be no IFFC convened. The proposal is an effort to avoid full reconsideration of projects at IFFC's based only on petitions claiming "good cause" when there is no basis in fact for allowing this intervention in the review process. This constitutes a definite advantage to the regulated entities.

There are no disadvantages to the public, the Department of Health, or the Commonwealth, in implementing these amendments.

Economic Impact: The COPN law mandates substantial state involvement in the process by which medical care facilities make major capital spending decisions. These facilities, the majority of which are privately controlled, must satisfy the Commissioner of Health that the public needs the facilities or services they plan to provide. The basis for state involvement is the perception that market forces, which would tend to rationalize capital spending by medical care facilities, are weak. Since the state has substantial financial

participation in paying for medical care facilities and services, the citizens of Virginia benefit from any reduction in unnecessary spending.

The proposed changes to the fee schedule should allow the COPN program to maintain a level of revenue from COPN applications adequate for the administration of the program as the revenue base shrinks. This shrinkage in the revenue base is the result of the deregulatory aspects of House Bills 1194 and 2016 discussed above. From July 1, 1996, to the present, at least 18 capital projects of hospitals and nursing homes which would have required review and authorization as projects under the law effective prior to July 1, 1996, have been exempted under the changes made in 1996 and in March of 1997. Application revenue lost as a result of this deregulation is estimated to total \$140,000.

The COPN program has already made adjustments to this down scaled scope of COPN regulation, reducing the number of full-time equivalent staff from its recent peak of 11 at the beginning of FY1996 to seven at the beginning of FY1997 (July, 1996). Despite these cuts, revenue for FY1997 is currently projected to fall approximately 15% short of expenditures, because of the reduced volume of projects reviewed this year. Because the equipment replacement provisions of HB 1194 will tend to further ratchet down the volume of reviewed projects over time, the fee increase is necessary to maintain program self-sufficiency from application fee revenue.

Specifically, while there will be fewer COPN applications filed in future years, those applicants still covered by the law will have to pay higher average fees. The fees will increase only for applicants with projects that have capital costs exceeding \$1 million and the proposed escalation of the fee schedule will be more gradual than that of the current fee schedule. Under current regulations, the maximum fee of \$10,000 is reached at a proposed capital expenditure of \$1 million. The proposed fee schedule will increase fees more gradually so that the maximum fee of \$20,000 is not reached until the proposed capital expenditure reaches \$5 million.

A new section does require that the commissioner be notified of the replacement of equipment that has been previously authorized for replacement through the issuance of a COPN. Since most applicants are already providing this written notification, the department believes the impact of the requirement is minimal.

No particular locality is affected more than another by this regulation.

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. This proposed regulation implements changes to the Certificate of Public Need (COPN) rules and regulations in conformance with statutory changes adopted during the 1996 and 1997 legislative sessions. HB 1199 (97 session) and HB 2016 (96 session) deregulate the replacement of major medical equipment any time after the first replacement, allow for emergency equipment to be exempt from the COPN process, increase from \$1 million to \$5 million the capital expenditure threshold that defines the need for COPN review for projects not increasing bed capacity, establish a minimum application fee of \$1,000, and increase the maximum fee to \$20,000. In addition, the proposed regulation adds language that should eliminate the need for an administrative hearing in certain instances.

Estimated economic impact. The program changes reflected in this regulation are the direct result of legislative action taken by the General Assembly; therefore, an assessment of the impact of this regulation on the hospitals affected is beyond the scope of this evaluation. However, the proposed regulation will have a fiscal impact on the application fee structure and on the staffing level for this program. The amount of revenue generated by the program will be reduced because of a reduction in applications for capital equipment. This reduction in revenue will be offset by an increase in the maximum application fee for capital projects and by additional revenue generated from applications for new nursing home beds.

The application fee for the program is 1.0%, with a proposed cap of \$20,000. The lower cap of \$10,000, concentrated fees disproportionately on lower cost projects, and the higher cap of \$20,000 will distribute a greater, though not proportionate, share of the costs to higher cost projects. Raising the cap to \$20,000 assures that applicants with projects up to \$2 million pay the full 1.0%, while applicant's with projects over \$2 million effectively pay rates of less than 1.0% because the fee is capped. This action will redistribute the financial burden of paying for the program in a more equitable manner.

For FY98, the agency projects that revenues will be 15% percent less than the program's operating expenses. The agency is permitted to carry over one month's worth of expenses. Therefore, the shortfall in revenue will be partially satisfied with funds remaining from the previous fiscal year. In addition, the agency will be accepting proposals for new nursing home beds throughout the state. A moratorium on nursing home beds was lifted in 1996, and the agency has recently begun the process of soliciting proposals for new beds. The application fees generated through the nursing home review process will also be used to cover operating expenses.

The program currently has 11 positions; however, four positions are vacant, and it is the agency's intention not to fill these positions. The remaining staff will be exclusively devoted to reviewing both hospital and nursing home applications. Therefore, the agency will be able to absorb the shifting workload through attrition.

Businesses and entities affected. This regulation affects all licensed hospital facilities with capital projects between \$1 million and \$5 million. Those facilities that have already received a COPN for equipment will not be required to proceed with another review if they are replacing that equipment. If, however, the facility will be adding new equipment, it will be necessary for them to complete the COPN review process. The number of projects affected is not known at this time since there is no way of determining exactly how many facilities would replace equipment in any given year. However, because of deregulating the replacement of equipment from the COPN review process, facilities that do replace equipment will realize cost savings.

Localities particularly affected. No localities are particularly affected by this regulation.

Projected impact on employment. This regulation will not have any impact on employment.

Effects on the use and value of private property. This regulation will not have any effect on the use or value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Health is in general concurrence with the economic impact analysis of the proposed amendments to the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations as developed by the Department of Planning and Budget. We would respectfully note the following corrections and comments:

The legislation which serves as a basis for the proposed regulatory amendments is House Bill 1194, a product of the 1996 General Assembly, and House Bill 2016, a product of the 1997 General Assembly.

HB 1194 did not "allow for emergency equipment to be exempt from the COPN process." The 1992 amendments to the COPN statute established a process by which the commissioner can exempt the replacement of regulated categories of medical equipment from COPN review, on request, when an emergency need for replacement can be documented. HB 1194 merely modified this existing authority to allow the commissioner to condition such exemptions on the provision of a level of care at a reduced rate to indigents or the acceptance of patients requiring specialized care.

The increase in the capital expenditure threshold from \$1 million to \$5 million is applicable to all medical care facilities undertaking capital projects not specifically described in the other statutory definitions of "project," not just projects involving increases in bed capacity.

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HB 1194 did not increase the maximum COPN application fee to \$20,000. It allows the Virginia Department of Health (VDH) to establish a maximum fee of up to \$20,000. The proposed regulatory amendments propose establishment of a maximum fee of \$20,000.

VDH does not project a budgetary deficit in operation of the COPN program in FY98, although projections of revenue are, of necessity, very soft for this program. While the chances of a deficit are higher without the proposed fee increase in place and are a certainty in future years without a fee increase, as declines in non-nursing home revenue escalate, it is likely that the increase in nursing home bed applications anticipated in FY98 will offset the anticipated decline in revenue from non-nursing home COPN projects, even at the current lower fee structure, so long as VDH takes a conservative approach to expenditures for this program. The COPN program's expenditures slightly exceeded fee revenue in FY97 but the program was able to cover this shortfall from surplus revenues acquired in a previous year.

The COPN program operated in FY97 with only seven of its 11 authorized positions filled. It is anticipated that one additional FTE, a secretary, will be added in FY98 and that some temporary (P-14) analyst hours will be employed in FY98 to assist in the workload associated with the first competitive nursing home review cycles in Virginia since 1988. This work will be concentrated in the latter half of FY98.

Hospitals are the primary, but not the only, category of medical care facility affected by the deregulation of medical equipment projects in HB 1194 (1996) and HB 2016 (1997).

Some regulated equipment is also located in nonhospital settings, including physician offices, outpatient centers and clinics, and on trucks transported among several sites on a shared basis.

Summary:

The proposed amendments conform the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations with recent amendments to the Code of Virginia, pursuant to the 1996 and 1997 Acts of the General Assembly, enacted to decrease regulatory involvement with projects to improve or increase services through capital expenditures at medical care facilities. An additional amendment to the regulation includes specific regulatory language that eliminates the need for an administrative hearing in many cases where one is not needed.

12 VAC 5-220-10. Definitions.

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

"Acquisition" means an expenditure of \$600,000 or more that changes the ownership of a medical care facility. It shall also include the donation or lease of a medical care facility. An acquisition of a medical care facility shall not include a

capital expenditure involving the purchase of stock. See 12 VAC 5-220-120.

"Amendment" means any modification to an application which is made following the public hearing and prior to the issuance of a certificate and includes those factors that constitute a significant change as defined in this chapter. An amendment shall not include a modification to an application which serves to reduce the scope of a project.

"Applicant" means the owner of an existing medical care facility or the sponsor of a proposed medical care facility project submitting an application for a certificate of public need.

"Application" means a prescribed format for the presentation of data and information deemed necessary by the board to determine a public need for a medical care facility project.

"Application fees" means fees required for a project application and application for a significant change. Fees shall not exceed the lesser of 1.0% of the proposed capital expenditure or cost increase for the project or \$10,000 \$20,000.

"Board" means the State Board of Health.

"Capital expenditure" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance. Such expenditure shall also include a series of related expenditures during a 12-month period or a financial obligation or a series of related financial obligations made during a 12-month period by or in behalf of a medical care facility. Capital expenditures need not be made by a medical care facility so long as they are made in behalf of a medical care facility by any person. See definition of "person."

"Certificate of public need" means a document which legally authorizes a medical care facility project as defined herein and which is issued by the commissioner to the owner of such project.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Commissioner" means the State Health Commissioner who has authority to make a determination respecting the issuance or revocation of a certificate.

"Competing applications" means applications for the same or similar services and facilities which are proposed for the same planning district or medical service area and which are in the same review cycle. See 12 VAC 5-220-220.

"Completion" means conclusion of construction activities necessary for substantial performance of the contract.

"Construction" means the building of a new medical facility or the expansion, remodeling, or alteration of an existing medical care facility.

"Construction, initiation of" means that a project shall be considered under construction for the purpose of certificate extension determinations upon the presentation of evidence by the owner of: (i) a signed construction contract; (ii) the completion of short term financing and a commitment for long term (permanent) financing when applicable; (iii) the completion of predevelopment site work; and (iv) the completion of building foundations.

"Date of issuance" means the date of the commissioner's decision awarding a certificate of public need.

"Department" means the State Department of Health.

"Designated medically underserved areas" means (i) areas designated as medically underserved areas pursuant to § 32.1- 122.5 of the Code of Virginia; (ii) federally designated Medically Underserved Areas (MUA); or (iii) federally designated Health Professional Shortage Areas (HPSA).

"Ex parte" means any meeting which takes place between (i) any person acting in behalf of the applicant or holder of a certificate of public need or any person opposed to the issuance or in favor of the revocation of a certificate of public need and (ii) any person who has authority in the department to make a decision respecting the issuance or revocation of a certificate of public need for which the department has not provided 10 days written notification to opposing parties of the time and place of such meeting. An ex parte contact shall not include a meeting between the persons identified in (i) and staff of the department.

"Gamma knife surgery" means stereotactic radiosurgery, where stereotactic radiosurgery is the noninvasive therapeutic procedure performed by directing radiant energy beams from any source at a treatment target in the head to produce tissue destruction. See definition of "project."

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Informal fact-finding conference" means a conference held pursuant to § 9-6.14:11 of the Code of Virginia.

"Inpatient beds" means accommodations within a medical care facility with continuous support services (such as food, laundry, housekeeping) and staff to provide health or health-related services to patients who generally remain in the medical care facility in excess of 24 hours. Such accommodations are known by varying nomenclatures including but not limited to: nursing beds, intensive care beds, minimal or self care beds, isolation beds, hospice beds, observation beds equipped and staffed for overnight use, and obstetric, medical, surgical, psychiatric, substance abuse, medical rehabilitation and pediatric beds, including pediatric bassinets and incubators. Bassinets and incubators in a

maternity department and beds located in labor or birthing rooms, recovery rooms, emergency rooms, preparation or anesthesia inductor rooms, diagnostic or treatment procedures rooms, or on-call staff rooms are excluded from this definition.

"Medical care facility" means any institution, place, building, or agency, at a single site, whether or not licensed or required to be licensed by the board or the State Mental Health, Mental Retardation and Substance Abuse Services Board, whether operated for profit or nonprofit and whether privately owned or operated or owned or operated by a local governmental unit, (i) by or in which facilities are maintained, furnished, conducted, operated, or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated mentally or physically sick or injured persons, or for the care of two or more nonrelated persons requiring or receiving medical, surgical, or nursing attention or services as acute, chronic, convalescent, aged, physically disabled, or crippled or (ii) which is the recipient of reimbursements from third party health insurance programs or prepaid medical service plans. For purposes of this chapter, only the following medical care facility classifications shall be subject to review:

1. General hospitals.
2. Sanitariums.
3. Nursing homes.
4. Intermediate care facilities.
5. Extended care facilities.
6. Mental hospitals.
7. Mental retardation facilities.
8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts.
9. Specialized centers or clinics or that portion of a physician's office developed for the provision of out-patient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, ~~single photon emission computed tomography (SPECT) scanning~~ nuclear medicine imaging, or such other specialty services as may be designated by the board by ~~chapter regulation~~.
10. Rehabilitation hospitals.
11. Any facility licensed as a hospital.

For purposes of this chapter, the following medical care facility classifications shall not be subject to review:

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1. Any facility of the Department of Mental Health, Mental Retardation and Substance Abuse Services.

2. Any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Mental Health, Mental Retardation and Substance Abuse Services Comprehensive Plan.

3. Any physician's office, except that portion of the physician's office which is described in subdivision 9 of the definition of "medical care facility."

4. *The Woodrow Wilson Rehabilitation Center of the Virginia Department of Rehabilitative Services.*

"*Medical service area*" means the geographic territory from which at least 75% of patients come or are expected to come to existing or proposed medical care facilities, the delineation of which is based on such factors as population characteristics, natural geographic boundaries, and transportation and trade patterns, and all parts of which are reasonably accessible to existing or proposed medical care facilities.

"*Modernization*" means the alteration, repair, remodeling, replacement or renovation of an existing medical care facility or any part thereof, including that which is incident to the initial and subsequent installation of equipment in a medical care facility. See definition of "construction."

"*Operating expenditure*" means any expenditure by or in behalf of a medical care facility which, under generally accepted accounting principles, is properly chargeable as an expense of operation and maintenance and is not a capital expenditure.

"*Operator*" means any person having designated responsibility and legal authority from the owner to administer and manage a medical care facility. See definition of "owner."

"*Other plans*" means any plan(s) which is formally adopted by an official state agency or regional health planning agency and which provides for the orderly planning and development of medical care facilities and services and which is not otherwise defined in this chapter.

"*Owner*" means any person who has legal responsibility and authority to construct, renovate or equip or otherwise control a medical care facility as defined herein.

"*Person*" means an individual, corporation, partnership, association or any other legal entity, whether governmental or private. Such person may also include the following:

1. The applicant for a certificate of public need;
2. The regional health planning agency for the health planning region in which the proposed project is to be located;
3. Any resident of the geographic area served or to be served by the applicant;

4. Any person who regularly uses health care facilities within the geographic area served or to be served by the applicant;

5. Any facility or health maintenance organization (HMO) established under § 38.2-4300 et seq. of the Code of Virginia which is located in the health planning region in which the project is proposed and which provides services similar to the services of the medical care facility project under review;

6. Third party payors who provide health care insurance or prepaid coverage to 5.0% or more patients in the health planning region in which the project is proposed to be located; and

7. Any agency which reviews or establishes rates for health care facilities.

"*Physician's office*" means a place, owned or operated by a licensed physician or group of physicians practicing in any legal form whatsoever, which is designed and equipped solely for the provision of fundamental medical care whether diagnostic, therapeutic, rehabilitative, preventive or palliative to ambulatory patients and which does not participate in cost-based or facility reimbursement from third party health insurance programs or prepaid medical service plans excluding pharmaceuticals and other supplies administered in the office. See definition of "medical care facility."

"*Planning district*" means a contiguous area within the boundaries established by the Department of Planning and Budget as set forth in § 15.1-1402 of the Code of Virginia.

"*Predevelopment site work*" means any preliminary activity directed towards preparation of the site prior to the completion of the building foundations. This includes, but is not limited to, soil testing, clearing, grading, extension of utilities and power lines to the site.

"*Primary medical care services*" means first-contact, whole-person medical and health services delivered by broadly trained, generalist physicians, nurses and other professionals, intended to include, without limitation, obstetrics/gynecology, family practice, internal medicine and pediatrics.

"*Progress*" means actions which are required in a given period of time to complete a project for which a certificate of public need has been issued. See 12 VAC 5-220-450, Demonstration of Progress.

"*Project*" means:

1. The establishment of a medical care facility. See definition of "medical care facility."
2. An increase in the total number of beds or operating rooms in an existing or authorized medical care facility.
3. Relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another in any two-year period; however, a hospital shall not be required to obtain a certificate for

the use of 10% of its beds as nursing home beds as provided in § 32.1-132 of the Code of Virginia.

4. The introduction into any existing medical care facility of any new nursing home service such as intermediate care facility services, extended care facility services or skilled nursing facility services except when such medical care facility is an existing nursing home as defined in § 32.1-123 of the Code of Virginia.

5. The introduction into an existing medical care facility of any new cardiac catheterization, computed tomography (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), medical rehabilitation, neonatal special care services, obstetrical services, open heart surgery, positron emission tomographic (PET) scanning, organ or tissue transplant service, radiation therapy, ~~single-photon emission computed tomography (SPECT) nuclear medicine imaging~~, psychiatric, substance abuse treatment, or such other specialty clinical services as may be designated by the board by regulation, which the facility has never provided or has not provided in the previous 12 months.

6. The conversion of beds in an existing medical care facility to medical rehabilitation beds or psychiatric beds.

7. The addition or replacement by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomography (CT), gamma knife surgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission tomographic (PET) scanning, radiation therapy, ~~single-photon emission computed tomography (SPECT)~~, or other specialized service designated by the board by regulation, except for the replacement of any medical equipment identified in this part which the commissioner has determined to be an emergency in accordance with 12 VAC 5-220-150 or for which it has been determined that a certificate of public need has been previously issued for replacement of the specific equipment according to 12 VAC 5-220-105.

8. Any capital expenditure of \$5 million or more, not defined as reviewable in subdivisions 1 through 7 of this definition, by or in behalf of a medical care facility. However, capital expenditures between \$1 million and \$5 million shall be registered with the commissioner.

"Public hearing" means a proceeding conducted by a regional health planning agency at which an applicant for a certificate of public need and members of the public may present oral or written testimony in support or opposition to the application which is the subject of the proceeding and for which a verbatim record is made. See subsection A of 12 VAC 5-220-230.

"Regional health plan" means the regional plan adopted by the regional health planning agency board.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform health planning activities within a health planning region.

"Schedule for completion" means a timetable which identifies the major activities required to complete a project as identified by the applicant and which is set forth on the certificate of public need. The timetable is used by the commissioner to evaluate the applicant's progress in completing an approved project.

"Significant change" means any alteration, modification or adjustment to a reviewable project for which a certificate of public need has been issued or requested following the public hearing which:

1. Changes the site;
2. Increases the capital expenditure amount authorized by the commissioner on the certificate of public need issued for the project by 10% or more;
3. Changes the service(s) proposed to be offered;
4. Extends the schedule for completion of the project beyond three years (36 months) from the date of certificate issuance or beyond the time period approved by the commissioner at the date of certificate issuance, whichever is greater. See 12 VAC 5-220-440 and 12 VAC 5-220-450.

"Standard review process" means the process utilized in the review of all certificate of public need requests with the exception of:

1. Certain bed relocation, equipment replacement, and new service introduction projects as specified in 12 VAC 5-220-280;
2. Certain projects which involve an increase in the number of beds in which nursing facility or extended care services are provided as specified in 12 VAC 5-220-325.

"State Medical Facilities Plan" means the planning document adopted by the Board of Health which shall include, but not be limited to (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services. The most recent applicable State Medical Facilities Plan shall remain in force until any such chapter is amended, modified or repealed by the Board of Health.

"Virginia Health Planning Board" means the statewide health planning body established pursuant to § 32.1-122.02 of the Code of Virginia which serves as the analytical and technical resource to the Secretary of Health and Human Resources in matters requiring health analysis and planning.

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12 VAC 5-220-105. Requirements for replacement of existing medical equipment which has been previously authorized as replacement equipment.

At least 30 days before any person contracts to make, or is otherwise legally obligated to make, a capital expenditure for the replacement of medical equipment for the provision of services listed in subdivision 7 of the definition of "project" in 12 VAC 5-220-10, which has been previously authorized for replacement through the issuance of a certificate of public need, the person shall notify the commissioner. The notification shall identify the specific unit of equipment to be replaced and the estimated capital cost of the replacement and shall include documentation that the equipment to be replaced has previously been authorized as replacement equipment through issuance of a certificate of public need.

12 VAC 5-220-150. Requirements for emergency replacement of equipment; notification of decision.

The commissioner shall consider requests for emergency replacement of medical equipment as identified in Part I of this chapter. Such an emergency replacement is not a "project" of a medical care facility requiring a certificate of public need. To request authorization for such replacement, the owner of such equipment shall submit information to the commissioner to demonstrate that (i) the equipment is inoperable as a result of a mechanical failure, Act of God, or other reason which may not be attributed to the owner and the repair of such equipment is not practical or feasible; or (ii) the immediate replacement of the medical equipment is necessary to maintain an essential clinical health service or to assure the safety of patients or staff.

In determining that an application for emergency replacement of medical equipment is not a "project," the commissioner may condition an application on the provision of a level of care at a reduced rate to indigents or acceptance of patients receiving specialized care.

For purposes of this section, "inoperable" means that the equipment cannot be put into use, operation, or practice to perform the diagnostic or therapeutic clinical health service for which it was intended.

Within 15 days of the receipt of such requests the commissioner will notify the owner in the form of a letter of the decision to deny or authorize the emergency replacement of equipment.

12 VAC 5-220-180. Application forms.

A. Letter of intent. An applicant shall file a letter of intent with the commissioner to request appropriate application forms, and submit a copy of that letter to the appropriate regional health planning agency, by the later of (i) 30 days prior to the submission of an application for a project included within a particular batch group or (ii) 10 days after the first letter of intent is filed for a project within a particular batch group for the same or similar services and facilities which are proposed for the same planning district or medical service area. The letter shall identify the owner, the type of project for which an application is requested, and the proposed

scope (size) and location of the proposed project. The department shall transmit application forms to the applicant within seven days of the receipt of the letter of intent. A letter of intent filed with the department shall be considered void one year after the date of receipt of such letter. (See 12 VAC 5-220-310 C.)

B. Application fees. The department shall collect application fees for applications that request a certificate of public need. The fee required for an application is the lesser of 4.0% of the proposed capital expenditure for the project or \$40,000, shall be computed as follows:

1. For projects with a capital expenditure of \$0 up to and including \$1,000,000, the application fee is the greater of 1.0% of the total capital expenditure or \$1,000;
2. For projects with a capital expenditure of \$1,000,001 up to and including \$2,000,000, the application fee is \$10,000 plus .25% of the capital expenditure above \$1,000,000;
3. For projects with a capital expenditure of \$2,000,001 up to and including \$3,000,000, the application fee is \$12,500 plus .25% of the capital expenditure above \$2,000,000;
4. For projects with a capital expenditure of \$3,000,001 up to and including \$4,000,000, the application fee is \$15,000 plus .25% of the capital expenditure above \$3,000,000;
5. For projects with a capital expenditure of \$4,000,001 up to and including \$5,000,000, the application fee is \$17,500 plus .25% of the capital expenditure above \$4,000,000;
6. For projects with a capital expenditure of \$5,000,001 or more, the application fee is \$20,000.

No application will be deemed to be complete for review until the required application fee is paid. (See 12 VAC 5-220-310 C.)

C. Filing application forms. Applications must be submitted at least 40 days prior to the first day of a scheduled review cycle to be considered for review in the same cycle. All applications including the required data and information shall be prepared in triplicate; two copies to be submitted to the department; one copy to be submitted to the appropriate regional health planning agency. No application shall be deemed to have been submitted until required copies have been received by the department and the appropriate regional health planning agency. (See 12 VAC 5-220-200.)

12 VAC 5-220-200. One hundred twenty-day review cycle.

The department shall review the following groups of completed applications in accordance with the following 120-day scheduled review cycles and the following descriptions of projects within each group, except as provided for in 12 VAC 5-220-220.

BATCH GROUP	GENERAL DESCRIPTION	REVIEW CYCLE	
		Begins	Ends
A	General Hospitals/Obstetrical Services/Neonatal Special Care Services	Feb. 10	Jun. 10
		Aug. 10	Dec. 8
B	Open Heart Surgery/Cardiac Catherization/Ambulatory Surgery Centers/Operating Room Additions/Transplant Services	Mar. 10	Jul. 8
		Sep. 10	Jan. 8
C	Psychiatric Facilities/Substance Abuse Treatment/Mental Retardation Facilities	Apr. 10	Aug. 8
		Oct. 10	Feb. 7
D	Diagnostic Imaging Facilities/Services	May 10	Sep. 7
		Nov. 10	Mar. 10
E	Medical Rehabilitation Beds/Services	Jun. 10	Oct. 8
		Dec. 10	Apr. 9
F	Selected Therapeutic Facilities/Services	Jul. 10	Nov. 7
		Jan. 10	May 10
G	Nursing Home Beds at Retirement Communities/Bed Relocations/Miscellaneous Expenditures by Nursing Homes	Jan. 10	May 10
		Mar. 10	July 8
		May 10	Sep. 7
		July 10	Nov. 7
		Sep. 10	Jan 8
		Nov. 10	Mar. 10

Batch Group A includes:

1. The establishment of a general hospital.
2. An increase in the total number of general acute care beds in an existing or authorized general hospital.
3. The relocation at the same site of 10 general hospital beds or 10% of the general hospital beds of a medical care facility, whichever is less, from one existing physical facility to any other in any two-year period.
4. The introduction into an existing medical care facility of any new neonatal special care or obstetrical services which the facility has not provided in the previous 12 months.
5. Any capital expenditure of \$5 million or more, not defined as a project category included in Batch Groups B through G, by or in behalf of a general hospital.

Batch Group B includes:

1. The establishment of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.

2. An increase in the total number of operating rooms in an existing medical care facility or establishment of operating rooms in a new facility.

3. The introduction into an existing medical care facility of any new cardiac catheterization, open heart surgery, or organ or tissue transplant services which the facility has not provided in the previous 12 months.

4. The addition or replacement by an existing medical care facility of any medical equipment for the provision of cardiac catheterization services *unless a certificate of public need authorizing replacement of equipment was previously issued for the specific unit of equipment to be replaced.*

5. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a specialized center, clinic, or portion of a physician's office developed for the provision of outpatient or ambulatory surgery or cardiac catheterization services.

6. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Group A or Batch Groups C through G, by or in behalf of a medical care facility, which is primarily related to the provision of surgery, cardiac catheterization, open heart surgery, or organ or tissue transplant services.

Batch Group C includes:

1. The establishment of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

2. A increase in the total number of beds in an existing or authorized mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

3. An increase in the total number of mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds in an existing or authorized medical care facility which is not a dedicated mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

4. The relocation at the same site of 10 mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds or 10% of the mental hospital, psychiatric hospital, substance abuse treatment and rehabilitation, or mental retardation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

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5. The introduction into an existing medical care facility of any new psychiatric or substance abuse treatment service which the facility has not provided in the previous 12 months.

6. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A and B or Batch Groups D through G, by or in behalf of a mental hospital, psychiatric hospital, intermediate care facility established primarily for the medical, psychiatric or psychological treatment and rehabilitation of alcoholics or drug addicts, or mental retardation facility.

7. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A and B or Batch Groups D through G, by or in behalf of a medical care facility, which is primarily related to the provision of mental health, psychiatric, substance abuse treatment or rehabilitation, or mental retardation services.

Batch Group D includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single-photon-emission-computed tomography (SPECT) nuclear medicine imaging.~~

2. The introduction into an existing medical care facility of any new computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single-photon-emission-computed tomography (SPECT) nuclear medicine imaging services~~ which the facility has not provided in the previous 12 months.

3. The addition or replacement by an existing medical care facility of any equipment for the provision of computed tomography (CT), magnetic resonance imaging (MRI), magnetic source imaging (MSI), or positron emission tomographic (PET) scanning, or ~~single-photon-emission-computed tomography (SPECT) unless a certificate of public need authorizing replacement of equipment was previously issued for the specific unit of equipment to be replaced.~~

4. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A through C or Batch Groups E through G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single-photon-emission-computed tomography (SPECT) nuclear medicine imaging.~~

5. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A through C or Batch Groups E through G, by or in behalf of a medical care facility, which is primarily related to the

provision of computed tomographic (CT) scanning, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, or ~~single-photon-emission-computed tomography (SPECT) nuclear medicine imaging.~~

Batch Group E includes:

1. The establishment of a medical rehabilitation hospital.

2. An increase in the total number of beds in an existing or authorized medical rehabilitation hospital.

3. An increase in the total number of medical rehabilitation beds in an existing or authorized medical care facility which is not a dedicated medical rehabilitation hospital.

4. The relocation at the same site of 10 medical rehabilitation beds or 10% of the medical rehabilitation beds of a medical care facility, whichever is less, from one existing physical facility to another in any two-year period.

5. The introduction into an existing medical care facility of any new medical rehabilitation service which the facility has not provided in the previous 12 months.

6. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A through D or Batch Groups F and G, by or in behalf of a medical rehabilitation hospital.

7. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A through D or Batch Groups F and G, by or in behalf of a medical care facility, which is primarily related to the provision of medical rehabilitation services.

Batch Group F includes:

1. The establishment of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.

2. Introduction into an existing medical care facility of any new gamma knife surgery, lithotripsy, or radiation therapy services which the facility has never provided or has not provided in the previous 12 months.

3. The addition or replacement by an existing medical care facility of any medical equipment for the provision of gamma knife surgery, lithotripsy, or radiation therapy *unless a certificate of public need authorizing replacement of equipment was previously issued for the specific unit of equipment to be replaced.*

4. Any capital expenditure of \$5 million or more, not defined as a project in Batch Groups A through E or Batch Group G, by or in behalf of a specialized center, clinic, or that portion of a physician's office developed for the provision of gamma knife surgery, lithotripsy, or radiation therapy.

5. Any capital expenditure of \$5 million or more, not defined as a project in Batch Groups A through E or Batch Group G, by or in behalf of a medical care facility, which is primarily related to the provision of gamma knife surgery, lithotripsy, or radiation therapy.

Batch Group G includes:

1. The establishment of a nursing home, intermediate care facility, or extended care facility of a continuing care retirement community by a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.

2. The establishment of a nursing home, intermediate care facility, or extended care facility that does not involve an increase in the number of nursing home facility beds in Virginia ~~when the capital expenditure for such establishment is \$5 million or more.~~

3. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility of a continuing care retirement community by a continuing care provider registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia.

4. An increase in the total number of beds in an existing or authorized nursing home, intermediate care facility, or extended care facility that does not involve an increase in the number of nursing home facility beds in Virginia ~~when the capital expenditure for such an increase is \$5 million or more.~~

5. The relocation at the same site of 10 nursing home, intermediate care facility, or extended care facility beds or 10% of the nursing home, intermediate care facility, or extended care facility beds of a medical care facility, whichever is less, from one physical facility to another in any two-year period, ~~when the capital expenditure for such relocation is \$1 million or more.~~

6. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A through F, by or in behalf of a nursing home, intermediate care facility, or extended care facility, which does not increase the total number of beds of the facility.

7. Any capital expenditure of \$5 million or more, not defined as a project category in Batch Groups A through F, by or in behalf of a medical care facility, which is primarily related to the provision of nursing home, intermediate care, or extended care services, and does not increase the number of beds of the facility.

12 VAC 5-220-230. Review of complete application.

A. Review cycle. At the close of the work day on the 10th day of the month, the department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a

proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant(s) and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person ~~opposed to a project seeking to demonstrate good cause at the conference showing good cause.~~ Any person seeking to demonstrate good cause shall file, no later than ~~seven days prior to the conference~~ 10 days after the department has completed its review and recommendation of an application and has transmitted the same to the applicants and to persons who have prior to the issuance of the report requested a copy in writing, written notification with the commissioner, applicant(s) and other competing applicants, and regional health planning agency stating the grounds for good cause and providing the factual basis therefor under oath.

For purposes of this section, "good cause" means that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. See § 9-6.14:11 of the Code of Virginia. *The commissioner shall within five days of receipt review any filing that claims good cause and determine whether the facts presented in writing demonstrate a likelihood that good cause will be shown. If there is such a likelihood, an informal fact-finding conference shall be held on the project and on the issue of whether good cause was shown. If such a likelihood is not demonstrated, the person asserting good cause may seek further to demonstrate good cause at any informal fact-finding conference otherwise scheduled on the project. If no conference has otherwise been scheduled, an informal conference shall be scheduled promptly to ascertain whether facts exist that demonstrate good cause. Within five days of any such conference the commissioner shall issue his final decision on whether good cause has been shown. No informal fact-finding conference shall be required on any project solely upon the request of a person claiming good cause unless the commissioner finds that good cause has been shown. Where good cause is not found by the commissioner to have been shown, the person claiming it*

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may not participate as a party to the case in any administrative proceeding.

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

B. Regional health planning agency required notifications. Upon notification of the acceptance date of a complete application as set forth in subsection A of this section, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in this chapter, in the county or city wherein a project is proposed or a contiguous county or city and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one-year time period following the final decision on a certificate of public need application. See definition of "public hearing."

C. Ex parte contact. After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

12 VAC 5-220-280. Applicability.

Projects of medical care facilities that satisfy the criteria set forth below as determined by the State Health Commissioner shall be subject to an expedited review process:

1. Relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another when the cost of such relocation is less than \$+ \$5 million.
2. The replacement at the same site by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomography (CT), lithotripsy, magnetic resonance imaging (MRI), open heart surgery, positron emission tomographic scanning (PET), or radiation therapy, ~~or single-photon emission computed tomography (SPECT)~~ when the medical care facility meets applicable

standards for replacement of such medical equipment which are set forth in the State Medical Facilities Plan.

~~3. The introduction into a medical care facility of any new single-photon emission computed tomography (SPECT) service when the medical care facility currently provides non-SPECT nuclear medicine imaging services and meets the applicable standards for establishment of SPECT services which are set forth in the State Medical Facilities Plan.~~

12 VAC 5-220-290. Application forms.

A. Obtaining application forms. Application forms for an expedited review shall be available from the department upon the request of the applicant. The department shall transmit application forms to the applicant within seven days of receipt of such request.

B. Application fees. The department shall collect application fees for applications that request a certificate of public need under the expedited review process. ~~The fee required for an application is the lesser of 1.0% of the proposed capital expenditure for the project or \$10,000.~~ No application will be reviewed until the required application fee is paid *as provided in 12 VAC 5-220-180 B.*

C. Filing application forms. All requests for a certificate of public need in accordance with the expedited review process shall be reviewed by the department and the regional health planning agency which shall each forward a recommendation to the commissioner within 40 days from the date the submitted application has been deemed complete. No application for expedited review shall be reviewed until the application form has been received by the department and the appropriate regional health planning agency, has been deemed complete, and the application fee has been paid to the department.

12 VAC 5-220-385. Review of complete application.

A. Review cycle. The department shall provide written notification to applicants specifying the acceptance date and review schedule of completed applications including a proposed date for any informal fact-finding conference that may be held. The regional health planning agency shall conduct no more than two meetings, one of which must be a public hearing conducted by the regional health planning agency board or a subcommittee of the board and provide applicants with an opportunity, prior to the vote, to respond to any comments made about the project by the regional health planning agency staff, any information in a staff report, or comments by those voting in completing its review and recommendation by the 60th day of the cycle. By the 70th day of the review cycle, the department shall complete its review and recommendation of an application and transmit the same to the applicant or applicants and other appropriate persons. Such notification shall also include the proposed date, time and place of any informal fact-finding conference.

An informal fact-finding conference shall be held when (i) determined necessary by the department or (ii) requested by any person ~~opposed to a project seeking to demonstrate~~

~~good cause at the conference showing good cause.~~ Any person seeking to demonstrate good cause shall file, no later than ~~seven days prior to the conference~~ 10 days after the department has completed its review and recommendation of an application and has transmitted the same to the applicants and to persons who have prior to the issuance of the report requested a copy in writing, written notification with the commissioner, applicant or applicants and other competing applicants, and regional health planning agency stating the grounds for good cause and providing the factual basis therefor under oath.

For purposes of this section, "good cause" means that (i) there is significant, relevant information not previously presented at and not available at the time of the public hearing, (ii) there have been significant changes in factors or circumstances relating to the application subsequent to the public hearing, or (iii) there is a substantial material mistake of fact or law in the department staff's report on the application or in the report submitted by the regional health planning agency. (See § 9-6.14:11 of the Code of Virginia.) *The commissioner shall within five days of receipt review any filing that claims good cause and determine whether the facts presented in writing demonstrate a likelihood that good cause will be shown. If there is such a likelihood, an informal fact-finding conference shall be held on the project and on the issue of whether good cause was shown. If such a likelihood is not demonstrated, the person asserting good cause may seek further to demonstrate good cause at any informal fact-finding conference otherwise scheduled on the project. If no conference has otherwise been scheduled, an informal conference shall be scheduled promptly to ascertain whether facts exist that demonstrate good cause. Within five days of any such conference the commissioner shall issue his final decision on whether good cause has been shown. No informal fact-finding conference shall be required on any project solely upon the request of a person claiming good cause unless the commissioner finds that good cause has been shown. Where good cause is not found by the commissioner to have been shown, the person claiming it may not participate as a party to the case in any administrative proceeding.*

The commissioner shall render a final determination by the 120th day of the review cycle. Unless agreed to by the applicant or applicants and, when applicable, the parties to any informal fact-finding conference held, the review schedule shall not be extended.

B. Regional health planning agency required notifications. Upon notification of the acceptance date of a complete application as set forth in subsection A of this section, the regional health planning agency shall provide written notification of its review schedule to the applicant. The regional health planning agency shall notify health care providers and specifically identifiable consumer groups who may be affected by the proposed project directly by mail and shall also give notice of the public hearing in a newspaper of general circulation in such county or city wherein a project is proposed or a contiguous county or city at least nine days

prior to such public hearing. Such notification by the regional health planning agency shall include: (i) the date and location of the public hearing which shall be conducted on the application except as otherwise provided in this chapter, in the county or city wherein a project is proposed or a contiguous county or city; and (ii) the date, time and place the final recommendation of the regional health planning agency shall be made. The regional health planning agency shall maintain a verbatim record which may be a tape recording of the public hearing. Such public hearing record shall be maintained for at least a one-year time period following the final decision on a certificate of public need application. See definition of "public hearing."

Ex parte contact. After commencement of a public hearing and before a final decision is made, there shall be no ex parte contacts between the State Health Commissioner and any person acting on behalf of the applicant or holder of a certificate or any person opposed to the issuance or in favor of revocation of a certificate of public need, unless written notification has been provided. See definition of "ex parte."

12 VAC 5-220-500. Exemption of ~~state home for aged and infirm veterans~~ Virginia Veterans Care Center.

Notwithstanding the foregoing and other provisions of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia, the ~~state home for aged and infirm veterans~~ Virginia Veterans Care Center authorized by Chapter 668, 1989 Acts of Assembly, shall be exempt from all certificate of public need review requirements as a medical care facility.

VA.R. Doc. No. R97-749; Filed August 27, 1997, 10:59 a.m.

BOARD OF PHARMACY

Title of Regulation: 18 VAC 110-20-10 et seq. Virginia Board of Pharmacy Regulations (amending 18 VAC 110-20-490).

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public Hearing Date: September 25, 1997 - 1 p.m.

Public comments may be submitted until November 14, 1997.

(See Calendar of Events section for additional information)

Basis: Chapters 24 (§ 54.1-2400 et seq.), 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 establishes the general powers and duties of health regulatory boards including the power to establish qualifications for licensure and responsibility to promulgate regulations. Chapter 33 establishes the Board of Pharmacy and authorizes the board to regulate the practice of pharmacy consistent with public health and safety. Chapter 34 establishes the Drug Control Act and authorizes the board to ensure the safety of the drugs prescribed and administered in the Commonwealth.

Proposed Regulations

Purpose: The purpose of proposed amendments to current regulations for mechanical devices is to address the issues of accountability and protection from diversion in automated dispensing devices used in hospitals in order to ensure the safety and efficacy of drugs for the health, safety, and welfare of the public.

Substance:

Proposed amendments to 18 VAC 110-20-490 set forth:

1. General requirements for the use of automated dispensing devices to include (i) a monthly inspection by pharmacy personnel to verify proper storage and location, expiration dates and security of drugs; (ii) specific access codes to identify the person accessing the device; and (iii) documented means of compliance as set forth in the pharmacy policy and procedure manual.
2. Loading requirements to include (i) original packaging or compliance with requirements of current regulations for repackaging, labeling, and records; (ii) loading by a nonpharmacist with checking of an order prior to loading by a pharmacist if device is used as a replacement for a manual floor-stock system or loading by a pharmacist or checking of the device by a pharmacist after loading by a nonpharmacist if the device is used as a patient-specific dispensing system; (iii) contents of the delivery records generated; (iv) signature on the delivery record by the person authorized to administer drugs from the device and maintenance of that record for two years; and (v) verification of the count and report of any discrepancy to the pharmacist in charge.
3. Recordkeeping requirements to include (i) contents of hard-copy record of administration; (ii) weekly audit and review of distribution and administration of drugs from each automated dispensing device and maintenance of that record for two years; and (iii) pharmacist review and release of drug prior to administration if the system is to be used as a replacement for a patient specific dispensing system such as unit dose.

Issues:

Issue 1. Current recordkeeping and checking of drug inventory have not provided effective deterrents to drug diversions. Hospital pharmacies have implemented usage of automated drug device (ADD) technology without incorporation of the rules for manual systems which have been found essential to protect the drug stocks in hospitals and to detect diversions or errors. Recent cases of diversion which have been undetected over long periods of time (i.e., 6 to 12 months) have revealed problems with improper access, lack of accountability, insufficient records and audits, and a lack of monitoring. In one case, a nurse repeatedly used bogus patient names and codes to access the machine for narcotics. In another, someone was able to use the access code of a nurse who had been fired to continue withdrawing large amounts of schedule II drugs. There have also been incidents of adulteration of the drug supply and diversion of

drugs through automated dispensing devices. Diversions have gone undetected for months in the current systems.

Alternatives considered: The board considered three alternatives to addressing the issue of use of automated drug devices in hospitals:

1. Stricter enforcement of current regulations, which provide requirements for manual systems and the older mechanical devices but do not fully address the new and emerging technology of an ADD. Without clear guidance from the board's regulations, hospitals do not have sufficient information on requirements in the establishment of policies and procedures and in the purchase of devices;
2. Regulations which would prohibit ADD's in order to ensure the "hands-on" involvement of pharmacists in entire process of filling and dispensing; or
3. Regulations which would continue to provide the necessary safeguards to protect from inappropriate drug therapies, prescription error, drug adulteration, or diversion, but would permit the use of ADD's and further development of the technology with the supervision and involvement of hospital pharmacists who are responsible for the drug supply.

Advantages and disadvantages: The problem with increased reliance on technology is that pharmacists are failing to ensure that current regulations on recordkeeping are being met, resulting in several recent cases of diversion for long periods of time without detection. While the machines are technically capable of maintaining and producing the necessary records, the problem lies in the procedures for filling, checking, and review of dispensing records. In addition, hospitals contend that the employment of unlicensed persons (pharmacy technicians) in the performance of some duties formerly restricted to a pharmacist and the use of ADD's in place of manual systems is both safe and cost effective. The advantages of the proposed regulations is that the utilization of new technology and technicians will be permitted, but the primary mission of protection of the public and safeguarding the drug supply in the Commonwealth will not be unduly compromised.

There are no disadvantages to the public in the appropriate, well-regulated use of automated dispensing devices.

Issue 2. Who has responsibility for loading these devices was a major issue in the development of these regulations. Since administration of drugs on the floor occurs directly from these machines, the question that the board had to answer was who has the training, competency, and responsibility for ensuring that the correct drug and dosage has been loaded. Ideally, a pharmacist would assume that task, much as he does in the community pharmacy in filling a prescription. Realistically, the necessity for cost-saving, time-saving measures in the delivery of drugs from the pharmacy to the floor in a hospital setting has invited automation and the use of unlicensed persons in the process. The problem for the board in exercising its statutory mandate to protect the quality

and efficacy of prescription drugs in the Commonwealth is that it has no jurisdiction over unlicensed persons performing pharmaceutical tasks. As unlicensed, unregulated individuals, there is no public accountability for mistakes made in loading drugs in a machine or for a diversion from that machine. Likewise, there is no assurance of sufficient training and competency.

Alternatives considered. In its development of this regulation, the board considered three alternatives:

1. No amendments to current regulations (18 VAC 110-20-490) which provides that "the utilization of such mechanical devices is under the personal supervision of the pharmacist" and that such supervision shall include "the placing of previously packaged and labeled drug units into the mechanical dispensing device";
2. An amendment to allow unlicensed persons to do the loading and checking of the devices without the involvement of a licensed pharmacist in the process. To do so, the board determined that it would abrogate its statutory responsibility to consider in the promulgation of regulations the "maintenance of the quality, quantity, integrity, safety, and efficacy of drugs or devices distributed, dispensed, or administered" (§ 54.1-3307); or
3. An amendment to allow technicians to load the devices if the ADD is only used in place of the manual floor stock system and if the pharmacists check the loading (since technicians have been safely delivering floor stock in a manual system to nursing units), but to retain the requirement for a pharmacist to load or check a machine after it has been loaded if the machine is to become the primary source of all drugs for patients in the hospital. Alternative 3 was adopted by the board as the most reasonable alternative given the need for drug safety and accuracy in an environment of increasing automation.

Advantages and disadvantages. While public comment has generally favored some expansion in the role of pharmacy technicians, it was usually assumed in the comment that only licensed persons administered drugs. Therefore, there was someone with training and expertise to recognize when an error had been made in the loading of an ADD. In some hospital settings, unlicensed persons are being allowed to administer medications. They do not have the training or ability to recognize the large variety of drugs and appropriate dosages available today.

The advantage of alternative 3 is that the proposed rule is an expansion of acts which the technician is allowed to perform in the practice of pharmacy without relinquishing the safeguards of checking by the pharmacist who, as the licensee, has the knowledge and responsibility for accuracy and public protection. By allowing technicians to fill the ADD used for floor stock, which contains less drugs, is available for first doses and not used for continuing medications, there is a better opportunity to catch any error which might have occurred before substantial harm has been done to a patient.

The proposed amendments do not affect the role of nurses in their use of ADD's or in the administration of drugs.

There is no disadvantage to the public who is better protected by alternative 3 than by alternative 2 which would have allowed loading of drugs into ADD's for administration to patients without any involvement by a pharmacist in the checking and review of distribution records.

Issue 3. In what form should records of drug delivery and administration be required was an issue discussed by the Ad Hoc Committee and by the board.

Alternatives considered. The board considered whether it was necessary to require an ADD produce a hard-copy record of distribution or to allow all records to be retained by the devices electronically. The board determined that a hard-copy record was necessary for two reasons: (i) many of the devices have insufficient memory to maintain records for the period of two years as required by state and federal law; and (ii) unless a hard-copy record is available, it is unlikely that anyone will actually examine the record for discrepancies or diversions.

Advantages and disadvantages. The advantage of a hard-copy record with regular schedules for review and maintenance of such records is that detection of error or diversion will be more likely to occur. When that does occur, there is a sufficient record to make corrections or adjustments in policy or procedure or to take action against a problem employee. Also, it will not be necessary to require that ADD's have the capability of storing records electronically for at least two years.

While storage of hard-copy records consumes more space, the alternative of electronic storage would be more burdensome for most devices. Therefore, there are no disadvantages of this alternative other than the storage space required to maintain the hard copy records. However, since hospitals are already required by current regulations to maintain these records, this should not constitute a change.

Estimated Fiscal Impact: 7,431 licensed pharmacists and 1,555 permitted pharmacies are affected by this regulation:

The board does not issue pharmacy permits by category, so the specific number of hospital pharmacies is unknown. Likewise, it is not known how many hospital pharmacies in Virginia currently utilize automated dispensing machines.

However, since the machines could potentially be used in every hospital in the future, these proposed regulations could affect all hospitals in the Commonwealth. There are currently 104 hospitals licensed in the Commonwealth by the Virginia Department of Health. (The Medical College of Virginia and the University of Virginia Health System are not licensed.) In addition, there are 14 psychiatric hospitals and 15 state mental health facilities with pharmacies regulated by the Virginia Department of Mental Health, Mental Retardation, and Substance Abuse Services.

Projected cost to the agency: The agency will incur costs (estimated to be \$1,500 to \$2,000) for mailings to the Public

Proposed Regulations

Participation Guidelines mailing list and the conduct of a public hearing in the promulgation of these regulations. However, the board will attempt to incorporate those into anticipated mailings and board meetings already scheduled.

Since proposed amended regulations do not add any additional requirements but are intended to make current requirements clearer in their application to automated dispensing of drugs, there should be no additional costs for inspections or enforcement.

The boards within the department which regulate persons employed by hospitals may experience some modest reduction in disciplinary cases involving diversions from automated dispensing devices. With clearer requirements for checking and recordkeeping, diversion may be more difficult; and when it does occur, it may be detected earlier.

Projected costs to the affected entities: Citizen input in development of regulation: In the development of regulations, the board made every effort to include citizen input from those engaged in the practice of hospital pharmacy, from associations affiliated with the practice, and from businesses providing technology for pharmacies and practitioners. Consequently, the board drafted regulations with a consideration for any fiscal impact on licensees but with public safety and protection from diversion primarily in mind.

Benefit to affected entities: The increased use of technology, such as the use of automated dispensing devices, should result in a financial benefit to hospital pharmacies. With requirements on the use of such devices clarified, the hospital will be able to proceed with development of policies and procedures in compliance with board regulations.

Cost to affected entities: Requirements for loading, checking, and record-keeping are no more stringent than current regulations for the use of mechanical devices or manual systems. Therefore, hospitals should not incur additional costs for compliance with these regulations.

Localities affected: There are no localities affected by these regulations in the Commonwealth.

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. The proposed regulation amends current regulations for mechanical devices in the dispensing of prescription drugs. The regulation addresses the issues of accountability and protection from diversion in automated dispensing devices (ADDs) used in hospitals in order to assure the safety and efficacy of drugs for the health, safety, and welfare of the public.

General requirements for the use of ADDs will include:

1. A monthly inspection by pharmacy personnel to verify proper storage and location, expiration dates and security of drugs;
2. Specific access codes to identify the person accessing the device;
3. Documented means of compliance as set forth in the pharmacy and procedure manual.

Loading requirements for the use of ADDs will include:

1. Original packaging or compliance with requirements of current regulations for repackaging, labeling, and records;
2. Loading by nonpharmacists under the supervision of a licensed pharmacist;
3. Contents of delivery records generated;
4. Signature on the delivery record by person authorized to administer drugs from the device and maintenance of that record for two years;
5. Verification of the count and report of any discrepancy to the pharmacist in charge.

Recordkeeping requirements for the use of ADDs will include:

1. Contents of hard-copy record of administration;
2. Weekly audit and review of distribution and administration of drugs from each ADD and maintenance of that record for two years;
3. Pharmacist review and release of drug prior to administration if the system is to be used as a replacement for a patient specific dispensing system such as a unit dose.

Estimated economic impact. According to DHP, the requirements for checking, loading, and recordkeeping are no more stringent than current regulations for the use of mechanical devices or manual systems. In particular, they do not add to existing requirements, but are intended to make current requirements clearer in their application to the automated dispensing of drugs. If that is the case, then hospitals should not incur additional costs for compliance with these regulations.

It is the opinion of DPB that, with proper monitoring, the increased use of automated drug dispensing devices should increase the efficiency of drug delivery and should be of financial benefit to hospitals. Moreover, with proper

monitoring patients are assured of proper handling and safety of drugs.

DHP indicates that its estimated costs for mailings to the Public Participation Guidelines mailing list and to conduct public hearings will be between \$1,500 and \$2,000. This cost should easily be offset by the benefit of reduced disciplinary cases involving diversions from ADDs that the agency has to adjudicate as a result of these regulations.

Businesses and entities affected. The businesses that would be affected by this regulation include the 7,431 licensed pharmacists and 1,555 permitted pharmacists in the Commonwealth. A potential of 104 hospitals, 14 psychiatric hospitals, and 15 state mental health facilities with pharmacies could also be affected.

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 use and value of private property 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 of the Department of Planning and Budget.

Summary:

The proposed amendments clarify and expand the current regulations on the use of mechanical devices to be applicable to automated dispensing devices being utilized in hospitals in Virginia. The amendments address the issues of loading, checking, recordkeeping, and drug administration in use of these devices; they are essential to providing guidance to hospitals and assurance to the public of the safety and efficacy of drug stocks in the Commonwealth.

18 VAC 110-20-490. Mechanical Automated devices for dispensing and administration of drugs.

A hospital may ~~utilize mechanical use~~ automated devices for the dispensing and administration of drugs pursuant to § 54.1-3301 of the Drug Control Act ~~provided the utilization of such mechanical devices is under the personal supervision of the pharmacist.~~ Such supervision shall include: and in accordance with 18 VAC 110-20-270, 18 VAC 110-20-420 or 18 VAC 110-20-460 as applicable. The following conditions shall apply:

- ~~1. The packaging and labeling of drugs to be placed in the mechanical dispensing devices. Such packaging and labeling shall conform to all requirements pertaining to containers and label contents.~~
- ~~2. The placing of previously packaged and labeled drug units into the mechanical dispensing device.~~

~~3. The removal of the drug from the mechanical device and the final labeling of such drugs after removal from the dispensing device.~~

~~4. In the absence of a pharmacist, a person legally qualified to administer drugs may remove drugs from such mechanical device.~~

1. Drugs placed in automated dispensing devices shall be in manufacturer's sealed original packaging or in repackaged containers in compliance with the requirements of 18 VAC 110-20-260 relating to repackaging, labeling, and records.

2. If an automated dispensing device is only used in place of a manual floor-stock system and if only persons who are licensed to administer drugs are using the device, nonpharmacist personnel may load drugs into the device provided a pharmacist checks the drugs to be loaded and the pharmacy distribution records prior to the drugs being removed from the pharmacy.

3. If an automated dispensing device is used in place of a patient-specific drug dispensing system, a pharmacist shall either load or check the loading of drugs into the device in accordance with the provisions of 18 VAC 110-20-270 B prior to drugs being removed for administration to a patient.

4. Prior to removal of drugs from the pharmacy, a delivery record shall be generated for all drugs to be placed in an automated dispensing device which shall include the date; drug name, dosage form, and strength; quantity; hospital unit and a unique identifier for the specific device receiving the drug; initials of the person loading the automated dispensing device; and initials of the pharmacist reviewing the transaction.

5. At the time of loading, the delivery record for all Schedule II through V drugs shall be signed by a nurse or other person authorized to administer drugs from that specific device, and the record returned to the pharmacy and maintained in chronological order for a period of two years from date of delivery.

6. At the time of loading any Schedule II through V drug, the person loading will verify that the count of that drug in the automated dispensing device is correct. Any discrepancy noted shall be recorded on the delivery record and immediately reported to the pharmacist in charge, who shall be responsible for reconciliation of the discrepancy or properly reporting of a loss.

7. Automated dispensing devices in hospitals shall be capable of producing a hard-copy record of administration which shall show patient name, drug name and strength, dose administered, date and time of administration, and identity of person administering the drug.

8. A pharmacist shall conduct at least a weekly audit and review of all distribution and administration of Schedule II through V drugs from each automated

Proposed Regulations

dispensing device. The audit shall reconcile the quantities loaded into the device and still on hand with the quantities removed from the device for administration. This audit shall also check for compliance with written procedures for security and use of the automated dispensing devices, accuracy of administration from the device, and proper recordkeeping. Random checks shall be made to ensure that a valid order exists for each dose administered. The hard-copy administration records printed out and reviewed in the audit shall be initialed and dated by the pharmacist conducting the audit and maintained in the pharmacy for a period of two years.

9. Except for urgent administration, a pharmacist shall, in accordance with 18 VAC 110-20-270 B, review and release a drug order for a patient prior to administration from an automated dispensing device which is being used in place of a patient specific dispensing system.

10. If an automated dispensing device is used to obtain drugs for dispensing from an emergency room, a separate dispensing record is not required provided the automated record distinguishes dispensing from administration and records the identity of the physician who is dispensing.

11. Automated dispensing devices shall be inspected monthly by pharmacy personnel to verify proper storage, proper location of drugs within the device, expiration dates, the security of drugs and validity of access codes.

12. Personnel allowed access to an automated dispensing device shall have a specific access code which records the identity of the person accessing the device.

13. Proper use of the automated dispensing devices and means of compliance with requirements shall be set forth in the pharmacy's policy and procedure manual.

VA.R. Doc. No. R97-755; Filed August 27, 1997, 11:37 a.m.

BOARD OF PSYCHOLOGY

Title of Regulation: 18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology (amending 18 VAC 125-20-30).

Statutory Authority: § 54.1-2400 and Chapter 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia.

Public Hearing Date: October 23, 1997 - 10 a.m.

Public comments may be submitted until November 14, 1997.

(See Calendar of Events section for additional information)

Basis: Chapters 24 (§ 54.1-2400 et seq.) and 36 (§ 54.1-3600 et seq.) of Title 54.1 of the Code of Virginia provide the basis for these regulations. Chapter 24 establishes the general powers and duties of health regulatory boards including the power to set fees and the responsibility to promulgate

regulations. Chapter 36 establishes the Board of Psychology and the requirement for licensure to engage in the practice of psychology.

Purpose: Regulation of psychologists was established on the basis of the criteria set forth in § 54.1-100 of the Code of Virginia that the unregulated practice of the profession can harm or endanger the health, safety or welfare of the public. The purpose of the amendments to the regulation is to comply with the statutory requirement of § 54.1-113 to establish fees that are sufficient to cover the expense of administering the licensure program.

Substance: An amendment is proposed to increase the renewal fee for all categories of licensed psychologists from \$125 per biennium to \$200 per biennium.

Issues: At the end of the 1992-94 biennium, the Board of Psychology had a deficit of 10.54%. In February 1995, the board requested permission to increase fees in compliance with § 54.1-113 of the Code of Virginia. Permission to publish a Notice of Intended Regulatory Action was granted in February of 1996. The notice was published on March 18, 1996. No comment was received during the 30-day comment period.

The board delayed further action on the regulation due to the enactment of legislation by the 1996 General Assembly that transferred regulation of clinical psychologists from the Board of Medicine to the Board of Psychology. In order to facilitate this transfer with minimal impact on licensees, the board adopted the biennial renewal schedule and \$125 fee in effect for clinical psychologists who represent 80% of the licensees now regulated by the Board of Psychology. For psychologists already licensed by the Board of Psychology, this represented a renewal fee reduction of \$65 per biennium. Those who held dual clinical psychologist licensure with the Boards of Medicine and Psychology realized greater savings, since they would no longer have to renew their second license. Renewal dates for individuals continuing licensure with the Board of Psychology were extended with no additional charge to accomplish the shift to the new biennial renewal schedule.

The transfer of licensees from the Board of Medicine resulted in a gain in revenue of \$123,130 per biennium. (This number takes into account a loss in revenue from 273 individuals who held dual licensure with the Board of Psychology who would no longer be paying the \$95 annual renewal fee.) The loss in revenue from the fee change and free extension for 730 individuals continuing licensure with the Board of Psychology resulted in a loss of revenue of \$47,450 per biennium. Elimination of the prorated initial licensure fee and additional \$300 fee for individuals applying for licensure with the Board of Medicine resulted in an additional revenue loss of \$12,000. The increase in operating expenditures for data processing, disciplinary procedures and general administration is estimated at \$77,000 per biennium, with an expected 5.0% increase in the following biennium.

Following the effective date of the emergency regulation, the Department of Health Professions' Finance Office presented

the board with an updated budget projection incorporating projected expenditures based on the new renewal schedule and fee. This projection indicates that continuing with the current fees will result in a 17% deficit at the end of FY '98, increasing to a 41% deficit in FY 2000.

Alternatives the board considered for meeting its expenses for the next two biennia were to (i) increase the current biennial renewal fee, thereby maintaining the renewal schedule currently in effect; (ii) return to the annual renewal schedule in effect prior to the current emergency regulation; and (iii) increase other fees besides the renewal fee. Since the bulk of the budget is derived from renewal fees, the board opted to amend only renewal fees to reduce the impact on new applicants who had not yet received services that contributed to the deficit.

The department's finance office prepared two alternative proposals to meet projected expenditures with increased renewal fees. The first proposal would restore the \$95 annual renewal in effect prior to the emergency regulation. The second proposal would maintain the biennial renewal schedule but increase the renewal fee to \$200. Both proposals would bring revenue to within 10% of expenditures through FY 2000.

The board selected the second proposal as the least disruptive to licensees and more cost effective to administer.

Advantages for applicants and licensees. Individuals who were previously licensed by the Board of Medicine will be able to maintain the renewal schedule to which they have been accustomed. Individuals who have continued licensure with the Board of Psychology will not be subjected to another renewal schedule change and will be paying only an additional \$10 per biennium compared with the renewal fee prior to the emergency regulation. The 273 individuals who were dually licensed with the Board of Medicine will continue to realize a savings of \$125 per biennium for no longer having to renew a second license. New applicants will not face any increase in fees for becoming licensed; in fact, clinical psychologist applicants who once paid \$450 to apply for licensure with the Board of Medicine will continue to pay only \$150 as established by the emergency regulations.

Advantages for the agency. The agency will be able to comply with § 54.1-113 of the Code of Virginia and maintain a balanced budget through FY 2000.

Disadvantages. Clinical psychologists transferred from the Board of Medicine will have to pay an additional \$75 per biennium to renew their licenses. This is not expected to have a significant impact on the cost of services.

Estimated fiscal impact of the regulations:

Approximate number of entities affected and their cost of compliance:

School psychologists	92
Clinical psychologists	1,618
Applied psychologists	74

Cost of compliance. Clinical psychologists transferred from the Board of Medicine will pay an additional \$75 per biennium to renew their licenses. Psychologists who have continued licensure under the Board of Psychology will pay an additional \$10 per biennium compared with the renewal fee prior to the emergency regulation.

Costs to the agency for implementation. There will be minimal costs (less than \$1,000) to the agency for the promulgation of regulations, such as: mailing of notices to the Public Participation Guidelines list, providing a public hearing on proposed regulations, and copying and mailing final regulations. The board will attempt to combine mailing notices and information on regulations with other required mailings.

Costs to local governments. Few government agencies assume renewal fees for their employees. Those whose policies allow for this will pay an additional \$75 per biennium for each clinical psychologist that previously had been licensed by the Board of Medicine.

Costs to small businesses. Private practices which cover renewal fees for their practitioners will pay an additional \$75 per biennium for each clinical psychologist who had been licensed by the Board of Medicine and an additional \$10 per biennium for psychologists continuing licensure with the Board of Psychology.

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. The proposed regulation will increase fees for the licensure renewal in compliance with § 54.1-113, which requires that the board collect fees sufficient to cover the expenses of administering the licensure program.

Estimated economic impact. In 1996, the General Assembly enacted legislation that transferred regulation of clinical psychologists from the Board of Medicine to the Board of Psychology. To facilitate the transfer with minimal impact on licensees, the Board of Psychology adopted the biennial renewal schedule and the \$125 fee used by the Board of Medicine. For psychologists licensed by the Board of Psychology, it represented a reduction of \$65 per biennium in renewal fees. Those with dual licensure realized even greater savings, since they no longer had to renew their

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second license. Renewal dates for individuals continuing licensure with the Board of Psychology were extended with no additional charge to accomplish the shift to the new biennial renewal schedule.

The Department of Health Professions reports that the transfer of licenses from the Board of Medicine resulted in a gain of revenue of \$123,130 per biennium. However, there was also a loss in revenue totaling \$136,450 per biennium. A projection by the department's finance office indicates that continuing with the current fees will result in a 17% deficit at the end of FY 1998, increasing to a 41% deficit by FY 2000.

With the proposed regulation, renewal fees for all categories of licensed psychologists will increase from \$125 per biennium to \$200 per biennium. Individuals who were previously licensed by the Board of Medicine will be able to maintain the renewal schedule that they have been used to. Those who have continued licensure with the Board of Psychology will pay an additional \$10 per biennium. Those who were dually licensed will continue to realize savings of \$125 per biennium. New applicants will not face any increase in fees for becoming licensed. This proposal should bring the board's revenue to within 10% of expenditures through FY 2000.

It is the opinion of DPB that the proposed fee increase will not have a significant impact on the number of clinical psychologists applying for licensure in the Commonwealth and therefore will have no economic impact. The total cost of licensure for these professionals includes, among other things, the expenses required to obtain a master's degree or Ph.D. from an accredited university. The licensure fees in their entirety make up a very small proportion of the total costs, such that a fee increase of this magnitude is unlikely to affect the number of individuals seeking licensure and therefore is unlikely to have any economic consequences.

Businesses and entities affected. The breakdown of psychologists affected by this regulation is as follows: 92 school psychologists, 1,618 clinical psychologists and 74 applied psychologists.

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

Projected impact on employment. It is the opinion of DBP that the renewal fee is such a small proportion of the total cost of licensure for psychologists that the increase should have no significant impact on employment.

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

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The board concurs with the economic impact analysis of the Department of Planning and Budget.

Summary:

The proposed amendment increases the fee for licensure renewal in compliance with § 54.1-113 of the Code of Virginia which requires that the board collect fees sufficient to cover the expenses of administering the licensure program.

18 VAC 125-20-30. Fees required by the board.

A. The board has established fees for the following:

- | | |
|--|-------------|
| 1. Registration of residency (per residency request) | \$100 |
| 2. Application processing | \$150 |
| 3. Biennial renewal of license | \$125 \$200 |
| 4. Late renewal | \$10 |
| 5. Endorsement to another jurisdiction | \$10 |
| 6. Additional or replacement wall certificate | \$15 |
| 7. Returned check | \$15 |
| 8. Rereview fee | \$25 |

B. Fees shall be paid by check or money order made payable to the Treasurer of Virginia and forwarded to the board. All fees are nonrefundable.

C. Examination fees shall be paid directly to the examination service according to its requirements.

NOTICE: The forms used in administering 18 VAC 125-20-10 et seq., Regulations Governing the Practice of Psychology, are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

Psychologist Licensure Application, Form 1, rev. 4/97.

Registration of Residency - Post-Graduate Degree Supervised Experience, Form 2, rev. 6/97.

Verification of Supervision, Form 3, rev. 6/97.

Internship Verification, Form 4, rev. 6/97.

Doctoral Program Approval of Internship, Form 5, rev. 6/97.

Licensure Certification Verification, Form 6, rev. 4/97.

Areas of Graduate Study, Form 7, rev. 6/97.

Renewal Notice and Application, rev. ~~6/97~~ 8/97.

Department of Health Professions
COMMONWEALTH OF VIRGINIA

RENEWAL NOTICE AND APPLICATION

Telephone:
License, certificate or registration number:

TYPE OF RENEWAL	CURRENT EXPIRATION DATE	CURRENT AMOUNT DUE \$	RENEWAL PERIOD FROM	TO	AMOUNT DUE IF RECEIVED AFTER \$
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C-45128

MAKE CHECKS PAYABLE TO THE "TREASURER OF VIRGINIA"
RETURN PAYMENT AND THE COMPLETED BOTTOM PORTION ONLY IN THE ENCLOSED ENVELOPE
KEEP TOP PORTION FOR YOUR RECORDS

<p>DISCLOSURE OF SOCIAL SECURITY OR VIRGINIA DMV CONTROL NUMBER</p> <p>In accordance with § 5-1-116 of the Code of Virginia, you are required to submit your Social Security Number or your control number issued by the Virginia Department of Motor Vehicles. If you fail to do so, the processing of your application will be suspended and fees will not be refunded.</p> <p>This number will be used by the Department of Health Professions for identification and will not be disclosed for other purposes except as provided for by law. Federal and state law requires that this number be shared with other agencies for child support enforcement activities.</p> <p>If the boxes below are empty, write in your Social Security or Virginia DMV Control Number. If the boxes do contain numbers, please verify that they are correct and make any necessary changes.</p> <p>NO LICENSE, CERTIFICATION OR REGISTRATION WILL BE ISSUED TO ANY INDIVIDUAL WHO HAS FAILED TO DISCLOSE ONE OF THESE NUMBERS.</p> <p><small>*In order to obtain a Virginia driver's license control number, it is necessary to appear in person at an office of the Department of Motor Vehicles in Virginia. A fee and disclosure of your Social Security Number will be required.</small></p>	<p>INSTRUCTIONS</p> <ol style="list-style-type: none"> 1. Verify Social Security or Virginia DMV Control Number at left. 2. Complete item "A" below if you do not wish to renew. 3. Make any address changes on this application when renewing. 4. Make any name changes on this application and enclose a copy of your marriage license or court order. 5. Note name and license, certificate or registration number on all enclosures. 6. Return the bottom portion of this application in the enclosed envelope. <p>A. <input type="checkbox"/> Check here if you <u>do not</u> wish to renew, and sign below.</p> <p>_____ Signature</p>
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THIS BOTTOM PORTION MUST BE RETURNED IN ORDER TO RENEW

Department of Health Professions
Type of renewal:
License, certificate or registration number:

REC 8/97

Proposed Regulations

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-90-10 et seq. Oil Discharge Contingency Plans and Administrative Fees for Approval (REPEALING).

VA.R. Doc. No. R97-742; Filed August 25, 1997, 11:35 a.m.

Title of Regulation: 9 VAC 25-130-10 et seq. Facility and Aboveground Storage Tank Registration Requirements (REPEALING).

VA.R. Doc. No. R97-741; Filed August 25, 1997, 11:35 a.m.

Title of Regulation: 9 VAC 25-140-10 et seq. Aboveground Storage Tank Pollution Prevention Requirements (REPEALING).

VA.R. Doc. No. R97-740; Filed August 25, 1997, 11:35 a.m.

Title of Regulation: 9 VAC 25-91-10 et seq. Facility and Aboveground Storage Tank (AST) Regulation.

Statutory Authority: §§ 62.1-44.2, 62.1-44.15 (10), 62.1-44.34:15, 62.1-44.34:15.1 and 62.1-44.34:19.1 of the Code of Virginia.

Public Hearing Date:

October 15, 1997 - 6 p.m. (Williamsburg)

October 16, 1997 - 6 p.m. (Roanoke)

October 24, 1997 - 6 p.m. (Prince William)

Public comments may be submitted until November 17, 1997.

(See Calendar of Events section for additional information)

Basis: To repeal the three existing regulations, (i) 9 VAC 25-90-10 et seq. (formerly VR 680-14-07), Oil Discharge Contingency Plans and Administrative Fees for Approval, (ii) 9 VAC 25-130-10 et seq. (formerly VR 680-14-12), Facility and Aboveground Storage Tank Registration Requirements, and (iii) 9 VAC 25-140-10 et seq. (formerly VR 680-14-13), Aboveground Storage Tank Pollution Prevention Requirements, related to facilities and aboveground storage tanks (ASTs) and consolidate the requirements into one clear and consistent regulation. This consolidation will aid DEQ's efforts to eliminate duplication, provide uniformity in regulation, streamline government services, and increase performance and efficiency.

Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia) requires the board to develop regulations as specified in the following sections:

§ 62.1-44.34:19.1 A: "To develop such an inventory (of facilities), the board is hereby authorized to develop regulations regarding registration requirements for facilities and aboveground storage tanks." Operators of each facility having an aboveground storage capacity of more than 1,320 gallons of oil or an individual aboveground storage tank having a capacity of more than 660 gallons of oil must register the facility and provide an inventory of aboveground storage tanks at the facility. Section 62.1-44.34:19.1 of the Code of Virginia authorizes the State Water Control Board to

collect fees for the registration of a facility and the aboveground storage tanks. The maximum fee set by statute is \$100 per facility or \$50 per tank. Registration shall be renewed every five years.

§ 62.1-44.34:15.1: "The board shall adopt regulations and develop procedures necessary to prevent pollution of state waters, lands, or storm drain systems from the discharge of oil from new and existing aboveground storage tanks." The statute also places more stringent requirements on aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater than on aboveground storage tanks at facilities with an aggregate capacity of less than one million gallons but equal to or more than 25,000 gallons of oil; and § 62.1-44.34:15.1 (5) of the Code of Virginia mandates: "The board shall establish criteria for granting variances from the requirements of the regulations promulgated pursuant to this section ..."

§ 62.1-44.34:15 B: "...An oil discharge contingency plan must conform to the requirements and standards determined by the board ..." The board is authorized to approve contingency plans filed with the board by facilities in the Commonwealth of Virginia having an aggregate aboveground maximum storage or handling capacity of equal to or greater than 25,000 gallons of oil.

§ 62.1-44.34:21: The board is authorized to collect fees for approval of an oil discharge contingency plan sufficient to meet, but not exceed, the costs of the board related to the implementation of § 62.1-44.34:15, Oil discharge contingency plans.

Purpose: The proposed regulation is essential to protect the health and safety of the citizens within the Commonwealth and to protect the environment. This proposed regulatory action combines three existing regulations into one clear and concise regulation to eliminate confusion as to applicability, definitions, etc., in each regulation. For instance, definitions found in § 62.1-44.34:14 of the Code of Virginia were added and modified as additional legislation was developed and thereby caused definitions to be fragmented among the regulations. Applicability of size or product in one regulation may not be consistent with the others (e.g., 110-gallon tanks apply in ODCP and registration regulations vs. 660-gallon tanks in the pollution prevention regulation). Consolidating the regulations will provide a more clearly written and understandable regulation that the regulated public can implement more efficiently.

The purpose of this proposed regulation is to:

1. Develop an inventory of facilities and aboveground storage tanks that will enable the board and the local jurisdictions to establish a database of tanks in the Commonwealth. This will provide information about existing tanks and the quantity of oil stored. It will also enable the state and local agencies to identify those tanks that may potentially develop leaks associated with age thus posing a threat to the public's health, safety and welfare;

2. Clarify and consolidate the requirements of three regulations thus eliminating duplication. It incorporates accepted industry standards and procedures to ensure that the aboveground storage tanks subject to this regulation are periodically inspected and tested for structural integrity thereby reducing the threat of a discharge of oil to the environment. It will enable the operators and local jurisdictions to become more involved in the day-to-day operation of the facilities and aboveground storage tanks. It will also set training standards for facility personnel and place operation safety standards on transfers of oil that impact the public's health, safety and welfare; and

3. Establish the contents and requirements for facility contingency plans. Plans must address concerns for the effect of oil discharges on the environment as well as considerations of the public's health and safety. The plan will ensure the applicant can take such steps as are necessary to protect environmentally sensitive areas; respond to the threat of an oil discharge; and contain, clean up and mitigate an oil discharge within the shortest feasible time.

Substance: Currently three regulations (9 VAC 25-90-10 et seq., 9 VAC 25-130-10 et seq., and 9 VAC 25-140-10 et seq.) apply to petroleum facilities located in the Commonwealth that have an aboveground storage capacity of 25,000 gallons or more of oil and to tank vessels. Each regulation was developed as a result of separate statutory changes and with each statutory amendment, the definitions and applicability of Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of the Code of Virginia were modified. For example, a facility may be subject to the ODCP regulations and not subject to the pollution prevention requirements. By repealing the three existing regulations and adopting one new regulation, inconsistencies between the regulations will be eliminated, resulting in a more efficient and understandable regulation for preventing or responding to a discharge of oil.

Section 62.1-4-34:15.1 of the State Water Control Law was amended to exempt certain ASTs located at facilities not engaged in the resale of oil from inventory control and testing for significant inventory variation requirements. Section 62.1-44.34:15.1 (5) was added and mandates the board to establish criteria for granting variances from 9 VAC 25-140-10 et seq., AST Pollution Prevention Requirements, for facilities not engaged in the resale of oil. The law was again amended to remove "not in the resale of oil" from the requirement so that the variance criteria would apply to all regulated facilities.

In addition, § 62.1-44.34:17 of the Code of Virginia was amended to provide that facilities not engaged in the resale of oil shall not be subject to § 62.1-44.34:15.1, Regulations for aboveground storage tanks, until July 1, 1995 (changed to the date when variance requirements are promulgated) and ASTs with a capacity of 5,000 gallons or less containing heating oil for consumption on the premises where stored are exempt from any requirements of § 62.1-44.34:15.1 of the Code of Virginia. In addition, the amendment provided that

the definition of oil, for the purposes of §§ 62.1-44.34:15.1 and 62.1-44.34:16 and for any requirement under § 62.1-44.34:15 to install groundwater monitoring wells, groundwater protection devices, or to conduct groundwater characterization studies, does not include asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure.

The DEQ has reviewed final facility response plan regulations implementing the provisions of the federal Oil Pollution Act of 1990 and found them to be congruous, in most cases, with the ODCP requirements of 9 VAC 25-90-10 et seq. The EPA facility regulations will not be applicable to the vast majority of facilities subject to the DEQ ODCP regulations. To better facilitate the one-plan concept, DEQ will evaluate and take the necessary steps to accept USCG- and EPA-approved response plans either wholly or with state-specific information added. Reevaluation of the administrative fee for approval will also be undertaken since it logically may be reduced.

Issues: All actions are expected to be beneficial to the regulated community and the general public as well as to the DEQ. Consolidating the requirements related to facilities and ASTs into one regulation will aid DEQ's efforts to eliminate duplication, provide uniformity in regulation, increase performance and efficiency, and streamline government services.

The primary advantages of this proposed regulation for the regulated public, the DEQ and the Commonwealth of Virginia are:

1. To provide the regulated community with a coordinated federal/state approach by DEQ's acceptance, in most cases, of federally approved response plans and the reevaluation of the administrative fee for approval to be undertaken;
2. To provide regulatory relief and variance options to those facilities and oil products addressed in the 1994 amendments to state law;
3. To provide uniformity and lessen the burden of duplicated regulations on the regulated community by consolidating the exclusions of the three existing regulations and adding exemptions required by statutory amendments;
4. To provide uniformity, clarity and lessen the burden of duplicated regulations on the regulated community by consolidating the definitions in the three existing regulations and adding new definitions;
5. To provide criteria mandated in the State Water Control Law for granting variances for the pollution prevention requirements;
6. To provide pollution prevention requirements for facilities not engaged in the resale of oil previously excluded in the State Water Control Law; and
7. To provide economic advantages by reducing certain administrative fees charged by the DEQ.

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The primary disadvantages of this proposed regulation for the regulated public, the DEQ and the Commonwealth of Virginia are:

1. ASTs with a storage capacity of 660 gallons or less of oil will not be regulated; and
2. With the addition of exclusions, some ASTs and facilities which pose a negligible risk may no longer be regulated.

Estimated Impact: All of the following intended regulatory actions are expected to have a beneficial impact on the regulated community as well as the DEQ:

1. Consolidating regulations within the AST program will enable the public, industry and the DEQ to better understand the requirements and to provide for options to be considered;
2. Providing coordinated spill response with the USCG and the EPA by accepting federally approved spill plans will demonstrate Virginia's concern for protecting the environment and eliminate duplication of regulatory requirements. The DEQ will require specific information to be submitted in addition to demonstration of federal approvals;
3. Eliminating the need to perform inventory control or testing for variance requirements will save an estimated 450 AST facilities with approximately 2,500 ASTs \$550 each per year;
4. Granting variances will save approximately 100 facilities \$1,000 per year;
5. Extending compliance until variance provisions are promulgated is projected to affect 450 AST facilities with approximately 2,500 ASTs and will save each facility \$500 for the year extension;
6. Exempting from pollution prevention requirements heating oil ASTs of 5,000 gallons or less will save 750 AST facilities approximately \$500 per year per facility; and
7. Exempting asphalt will save 20 facilities statewide approximately \$10,000 per facility initially and \$1,000 per facility annually.

No regulated facility is expected to incur any additional costs, and no locality should be particularly affected by this regulatory action.

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. The proposed regulation makes a number of changes in the regulation of aboveground oil storage tanks (ASTs). The proposed language:

1. Consolidates the regulations pertaining to ASTs into one regulation;
2. Streamlines the renewal process and reduces the associated fees;
3. Allows larger facilities to use federally approved response plans to satisfy certain state requirements;
4. Implements statutory provisions requiring DEQ to establish procedures and criteria for granting variances to certain requirements and for excluding certain facilities from otherwise applicable provisions.

Estimated economic impact. The AST regulations include three distinct parts: registration and renewal, contingency planning and pollution prevention. Each of these three parts will be modified by the proposed language.

Oil Discharge Contingency Planning: Changes to the contingency planning (ODCP) provisions are primarily administrative. At the present time, the ODCP provisions are combined with similar provisions covering tank vessels. This proposal will consolidate the ODCP provisions concerning ASTs with the other AST provisions. The consolidation of all regulations along the lines of the types of facilities covered rather than the environmental medium at risk makes the provisions more accessible to both the regulated facilities and to others.

ASTs with a capacity of one million gallons or more are subject to federal regulation of the risks that potential spills pose to surface waters. Since the federal regulations conform substantially to the requirements imposed by Virginia's regulations, DEQ proposes allowing federally approved ODCPs to satisfy the portion of Virginia's requirements for the risks that these facilities pose to surface waters. These facilities will still be required to meet the other requirements in the AST regulations, i.e., those pertaining to spills onto land or into the groundwater or storm drains. Eliminating a redundant layer of regulation in this case provides a small net economic benefit for Virginia.

The ODCP must be renewed every five years. DEQ has streamlined the renewal process so that renewal is accomplished by sending a one- to two-page form to DEQ noting that no changes have occurred at the facility. Consequently, DEQ is proposing to eliminate renewal fees since its own costs of processing renewals will be minimal. This, combined with the savings in applicant costs, provides a significant net benefit.

The restructuring of the administrative code for clarity and consistency probably does provide some economic benefits. A user-friendly administrative code may contribute to a better business climate without imposing any costs. However modest the gain, it does constitute a net addition to economic well-being in Virginia.

Consolidating the regulations led DEQ to attempt to make application of the various provisions consistent with each other. A number of definitions have been modified to improve consistency. The most substantial change made for this purpose was to provide that ASTs with a capacity of less than 660 gallons are no longer to be counted in determining a facility's aggregate storage capacity. According to DEQ, this change is designed to remove residential facility oil tanks, primarily at military bases, from coverage by this regulation. These tanks are still regulated by federal rules that made state regulation somewhat redundant. DEQ estimates that no more than 15 facilities will be affected by this change and that these facilities present relatively low risk. For owners and operators of these facilities, the reporting requirements under these regulations will be somewhat lower. The available data do not allow any conclusion about the magnitude of the costs or benefits of this change other than that the net effect is likely to be small, whatever its sign.

Registration and renewal: The registration process for AST facilities and tanks has now been in place for four years. All existing installations have completed the registration process. Thus, any changes in the initial registration process will only apply to new installations. There are approximately 250 new registrations per year. The fee for registration ranges from \$25 to \$100. Gathering the information necessary for filling out the form is not extensive and would generally not cost registrants as much as \$250 to process. Given this, the total costs to DEQ of the registration program probably do not exceed \$50,000 per year and costs to industry should not exceed \$100,000 per year. DEQ has made significant effort to automate the administration of the registration process which has probably helped to keep registration costs low. These costs of registration will not change noticeably with this proposal.

While this proposal does not have a major impact on the registration process, it does significantly streamline the renewal process. Registrations must be renewed every five years. DEQ has eliminated the need to fill out the entire registration form for a facility or AST. Renewal is accomplished by filling out and sending to DEQ a one- to two-page form noting that no changes have occurred at the facility. Consequently, DEQ anticipates that its own costs of processing renewals will be minimal. The combined savings in DEQ and applicant costs provide a significant net benefit.

Pollution prevention: A number of important changes have been made in the pollution prevention requirements for ASTs.

1. Exceptions from "inventory control" and "testing for variance" requirements. As required by amendments to the statute, facilities that meet certain criteria are no longer required to perform inventory control or testing for

variance. The rationale for this change is that if the criteria are met, not enough is gained by these added requirements to justify their cost. The criteria specified by statute are as follows:

- a. Aboveground storage tanks totally off ground with all associated piping off ground;
- b. Aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil; and
- c. Aboveground storage tanks containing No. 5 or No. 6 oil for consumption on the premises where stored.

9 VAC 25-91-160 of this regulation establishes variances by rule from the inventory and testing requirements. The variance criteria include those listed above plus several others:

- d. ASTs with Release Prevention Barriers (RPBs) with all associated piping off ground, with an established corrosion rate and cathodic protection that protects the entire area of the tank bottom;
- e. ASTs with Release Prevention Barriers (RPBs) with all associated piping off ground, with secondary containment that is 72 hours impervious;
- f. ASTs that meet the construction and installation standards of STI - F911-93, F921-93, or F941-94 or equivalent standards approved by the board;
- g. Vaulted tanks meeting UL 2245 or an equivalent standard approved by the board;
- h. An AST used in the production/manufacturing process with full containment that is 72 hours impervious; and
- i. An AST of 12,000 gallons or less, with full containment that is 72 hours impervious, inside a building and used for the storage of heating oil consumed on the premises.

DEQ estimates that this change will save between \$1 million and \$1.5 million each year for the facilities covered by these variances. While most of these criteria are directly related to the environmental risk posed by the relevant AST, the third is not. It is not clear, what relevance the condition "for consumption on the premises where stored" has to the environmental risk addressed by this regulation.¹ Without more information about the environmental risks posed by relaxing inventory control and testing for variance requirements at this third class of facilities, it is not possible to make a conclusion about the net economic impact of this change in the regulation.

¹ This language is taken from the amendments to the statute.

Proposed Regulations

2. Variances generally. DEQ estimates that the variance provisions, which are required by code, will save \$1,000 annually for each of approximately 100 facilities. Presumably this is in addition to the provisions related to inventory control and testing for variance. While this estimate is admittedly extremely rough, its small magnitude is due, at least in part, to DEQ's restrictively worded language authorizing the variance program. The language in the proposal reads:

"9 VAC 25-91-160. Variances to the requirements of Part III (9 VAC 25-91-130 et seq.) of this chapter.

A. General criteria for granting a variance on a case-by-case basis.

1. The board is required by § 62.1-44.34:15.1 of the Code of Virginia to establish the criteria to grant variances of the AST pollution prevention requirements on a case-by-case basis and by regulation for categories of ASTs. Any person affected by these regulations may petition the board to grant a variance of any requirement of Part III (9 VAC 25-91-130 et seq.) of this chapter.

2. The board will not grant any petition for a variance related to:

- a. Definitions;
- b. Registration;
- c. Classification of aboveground storage tanks;
- d. Oil discharge contingency plans; or
- e. Any requirement for which the petitioner is currently under enforcement action by the board.

3. The board may grant a variance if:

a. The applicant demonstrates to the satisfaction of the board that the alternate design or operation will result in a facility that is equally capable of preventing pollution of state water, land, and storm drains from the discharge of oil from new and existing ASTs. If the variance would extend a statutory deadline, the petitioner shall demonstrate that a good faith effort to comply with the statutory deadline was made.

b. Granting the variance will not result in an unreasonable risk to human health or the environment; and

c. Granting the variance will not result in a conflict with applicable local codes or ordinances.

... "

A little further on, the text reads:

"B. Administrative procedures.

1. General requirements for the submission of a petition by the owner or a duly authorized representative.

a. All petitions submitted to the board shall include:

(1) The owner's or duly authorized representative's name and address;

(2) A citation of the regulatory requirement from which a variance is requested;

(3) An explanation of the need or desire for the proposed action, including the reason the existing requirement is not achievable or is impractical;

... "

While the authorizing language of 9 VAC 25-91-160 A 3 is quite permissive, the language of 9 VAC 25-91-160 B 1 a (3) imposes very significant restrictions on the availability of variances. This latter language could be read to imply that as an additional requirement to those in 9 VAC 25-91-160 A 3, an applicant must be able to show that the existing requirement is not achievable or is otherwise impractical. The word "impractical" seems to rule out the existence of a less costly alternative as a reason for granting a variance. DEQ argues that this language is solely for the purpose of gathering information about the basis of the variance and that a cost effective alternative satisfies the intent behind the use of the word impractical. While there may be good reason for DEQ to gather information about the rationale behind a variance, the way this provision is worded could lead to confusion.

In 9 VAC 25-91-160 A 2 e of the variance provisions, the proposal disallows variances for "[a]ny requirement for which the petitioner is currently under enforcement action by the board." The apparent intent of this provision is quite reasonable; the effectiveness of enforcement under this program could be reduced if, once an enforcement action is taken, an operator could apply for a variance that would cover the actions subject to DEQ enforcement efforts.

There is a cost associated with this provision, however. It is possible that a firm that is in noncompliance for some past actions could apply for a variance that would lower its costs in the future. Yet, because the requirement is under an enforcement action, the firm must pass up the potential cost savings until the enforcement action is resolved. This could mean that a firm might have to make a significant, but unnecessary, capital outlay to implement a requirement that only applied to it because of the enforcement action. It would be worthwhile for DEQ to consider whether there is language that would allow a firm to request a variance that would apply to its future actions without jeopardizing the enforcement action related to its past actions.² Such language could produce significant cost savings without increasing risks to environmental resources.

² DEQ staff have indicated that they recognize a need to reword this provision and will seek comment on this point from the public.

3. The exemption of heating oil ASTs. The proposed regulation, as required by statute, exempts from pollution prevention requirements heating oil ASTs of 5,000 gallons or less capacity. DEQ estimates a compliance cost savings of approximately \$375,000 per year. This exemption clearly carries with it some environmental risk. The data needed to determine the relative magnitude of the risks and benefits were not available at the time of this report.

4. Overfill alarms. Tanks with a capacity of one million gallons or more must have, by statute, overfill alarms. The proposal does not require alarms on ASTs located at facilities with less than one million gallons aggregate capacity. DEQ staff have indicated that overfills with some subsequent environmental damage are quite common. Assuming that the installation of alarms would reduce the number of overfills and the subsequent environmental damage, there is an economic benefit to installing the alarms. Whether this benefit can justify the cost of installing and maintaining alarms on tanks at smaller facilities is an open question. The data on the value of damages due to overfills is simply not available. Thus there is no basis on which to draw a conclusion about the net economic value of requiring alarms on smaller AST facilities. This would certainly be a fruitful area of research.

Businesses and entities affected. The number of facilities affected by this regulation will be on the order of 1,000 to 1,500. These facilities range in size from storage tanks with a capacity of 660 gallons to more than one million gallons and to heating oil ASTs with a capacity of 5,000 gallons or less. Also, as mentioned earlier, a small number of facilities with tanks having a capacity of less than 660 gallons will no longer be covered by these provisions.

Localities particularly affected. It is not expected that any localities will experience a disproportionate share of the costs or the benefits of this proposed change.

Projected impact on employment. In the short and medium terms, this regulation will have no discernible impact on employment. In the longer term, a reduction in the costs of compliance with environmental regulations that do not result in significant risk to environmental quality can be expected to improve the business climate and contribute (at the margin) to the likelihood that a business would choose to locate in Virginia or expand operations here. Thus, these proposed changes could contribute increased employment at some point in the future.

Effects on the use and value of private property. Since the change in regulatory costs expected from these proposals is small relative to either the total regulatory costs or the other costs of operating the facilities, it is not expected that these changes will have any noticeable effect on the use and value of private property.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: DEQ concurs with DPB's impact statement, but would like to supply the

following clarifying information about one part of the proposed regulation.

The portion of the proposed regulation that deals with the process of submitting requests for a variance to regulatory requirements (9 VAC 25-91-160 B 1) reads, in part:

"a. All petitions submitted to the board shall include:

(1) The owner's or duly authorized representative's name and address;

(2) A citation of the regulatory requirement from which a variance is requested;

(3) An explanation of the need or desire for the proposed action, including the reason the existing requirement is not achievable or is impractical;"

DPB's impact statement includes the following comment on requirement B 1 a (3):

"While the authorizing language (in the statute) is quite permissive, the language of B 1 a (3) imposes very significant restrictions on the availability of variances. This latter language could be read to imply that as an additional requirement to those in (the statute), an applicant must be able to show that the existing requirement is not achievable or is otherwise impractical. The word "impractical" seems to rule out the existence of a less costly alternative as a reason for granting a variance."

DEQ does not intend for the proposed regulation's B 1 a (3) language to be interpreted in this manner. DEQ will clarify, during the public comment process, that we simply want the variance application to include explanation of why the alternative solution is more preferable to them than is the regulatory prescription. An explanation stating why the alternative solution being proposed is more cost-effective or more practical, and why it provides equivalent environmental protection is perfectly acceptable.

This would be true even if the regulatory prescription was achievable and practical. The possibility that there are more cost effective or practical solutions than the ones prescribed by regulation is exactly what the General Assembly envisioned when they established DEQ's ability to grant variances. DEQ would like to be apprised of the practical shortcomings of the regulatory prescriptions when a variance is requested so that it can ensure its regulations remain viable, up-to-date, and practical.

If the upcoming period of public comment on the proposed regulation supports the need for clarifying language, then DEQ could consider amendments such as:

"a. (3) An explanation of the need or desire for the proposed action, including the reason(s) the regulatory requirement is not achievable, is impractical, or is otherwise less desirable than is the applicant's proposed alternate design or operation. "

Proposed Regulations

DEQ would like to emphasize that the law and regulations require DEQ to grant or deny variances on the basis of their technical merit (their ability to provide equivalent environmental protection) and not on the basis of why the variance is being requested.

Summary:

The State Water Control Board is proposing the adoption of a new regulation, 9 VAC 25-91-10 et seq. which will consolidate the three existing regulations, i.e., (i) 9 VAC 25-90-10 et seq. (formerly VR 680-14-07), Oil Discharge Contingency Plans and Administrative Fees for Approval, (ii) 9 VAC 25-130-10 et seq. (formerly VR 680-14-12), Facility and Aboveground Storage Tank Registration Requirements, and (iii) 9 VAC 25-140-10 et seq. (formerly VR 680-14-13), Aboveground Storage Tank Pollution Prevention Requirements, relating to facilities and ASTs located in the Commonwealth that have an aboveground storage capacity of 25,000 gallons or more of oil. Each of the three are modified. Administrative changes are made to the oil discharge contingency planning section. Also, federally approved oil discharge contingency plans will be allowed to satisfy portions of Virginia's requirements. The oil discharge contingency plan renewal process is streamlined so renewal fees are eliminated. Concurrently, the board is proposing the repeal of the three existing regulations. Subdivision 5 of § 62.1-44.34:15.1 of the Code of Virginia was added and mandates the board to establish criteria for granting variances from the AST pollution prevention requirements (9 VAC 25-140-10 et seq.). This regulatory action incorporates statutory amendments and makes additional changes in the pollution prevention requirements for ASTs.

CHAPTER 91.

FACILITY AND ABOVEGROUND STORAGE TANK (AST) REGULATION.

PART I.

PROGRAM ADMINISTRATION.

9 VAC 25-91-10. Definitions.

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

"Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than 90% above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 USC App § 2001 et seq.) or the federal Natural Gas Pipeline Safety Act of 1968 (49 USC App § 1671 et seq.), as amended.

"Board" means the State Water Control Board.

"Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

"Corrosion professional" means a person who by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Department" means the Department of Environmental Quality (DEQ).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil and includes a pipeline.

"Flow-through process tank" means (as defined in 40 CFR Part 280) a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Local building official" means the person authorized by the Commonwealth to enforce the provisions of the Uniform Statewide Building Code (USBC).

"Local director or coordinator of emergency services" means any person appointed pursuant to § 44-146.19 of the Code of Virginia.

"Major repair" means alterations that refer to operations that require cutting, additions, removal or replacement of the annular plate ring, the shell-to-bottom weld or a sizable portion of the AST shell.

"Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils, and all other liquid hydrocarbons regardless of specific gravity.

"Operator" means any person who owns, operates, charters by demise, rents, or otherwise exercises control over or responsibility for a facility or a vehicle or a vessel.

"Person" means an individual; trust; firm; joint stock company; corporation, including a government corporation; partnership; association; any state or agency thereof; municipality; county; town; commission; political subdivision

of a state; any interstate body; consortium; joint venture; commercial entity; the government of the United States or any unit or agency thereof.

"Pipes" or "piping" means that piping directly associated with the operation of an AST, or emanating from or feeding ASTs, but does not include (i) pipelines and (ii) piping which connects an AST with production process tanks or production process equipment beyond the first connection with the AST.

"Pipeline" means all new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of oil, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe; pumping units; fabricated assemblies associated with pumping units; metering and delivery stations and fabricated assemblies therein; and breakout tanks.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.

"Storage capacity" means the total capacity of an AST or a container, whether the AST is filled in whole or in part with oil, a mixture of oil, or mixtures of oil with nonhazardous substances, or is empty. The term does not include the capacity of any AST that has been permanently closed in accordance with this chapter.

"Tank" means a device designed to contain an accumulation of oil and constructed of non-earthen materials, such as concrete, steel, or plastic, that provides structural support. This term does not include flow-through process tanks as defined in 40 CFR Part 280.

"Tank vessel" means any vessel used in the transportation of oil as bulk cargo.

"Upgrade" means an alteration of the performance, design, equipment or appurtenances of an AST or facility to meet a higher, new, or current standard.

"Vaulted tank" means any tank situated upon or above the surface of the floor in an underground area (such as an underground room, basement, cellar, mine-working, drift, shaft, tunnel or vault) providing enough space for physical inspection of the exterior of the tank.

"Vehicle" means any motor vehicle, rolling stock, or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

"Vessel" includes every description of watercraft or other contrivance used as a means of transporting on water, whether self-propelled or otherwise, and shall include barges and tugs.

9 VAC 25-91-20. Applicability.

A. The provisions of Part II (9 VAC 25-91-100 et seq., Registration, notification and closure requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity greater than 660 gallons of oil, unless otherwise

specified within this chapter; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity greater than 1,320 gallons of oil, unless otherwise specified within this chapter.

B. The provisions of Part III (9 VAC 25-91-130 et seq., Pollution prevention requirements) and Part IV (9 VAC 25-91-170, Oil discharge contingency plan (ODCP) requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity of 25,000 gallons or greater of oil, unless otherwise specified within this chapter; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil, unless otherwise specified within this chapter.

C. The provisions of Part V (9 VAC 25-91-180 et seq., Groundwater characterization study and monitoring requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity of one million gallons or greater of oil, unless otherwise specified within this regulation; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity of one million gallons or greater of oil, unless otherwise specified within this chapter.

D. The operator shall comply with all requirements pursuant to this regulation unless the context of the requirement clearly indicates otherwise.

9 VAC 25-91-30. Exclusions.

A. The requirements of this chapter do not apply to:

1. Vessels;
2. Licensed motor vehicles, unless used solely for the storage of oil;
3. An AST with a storage capacity of 660 gallons or less of oil;
4. An AST containing petroleum, including crude oil or any fraction thereof, which is liquid at standard temperature and pressure (60°F at 14.7 pounds per square inch absolute) subject to and specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of § 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 USC § 9601 et seq.);
5. A wastewater treatment tank system that is part of a wastewater treatment facility regulated under § 402 or § 307(b) of the federal Clean Water Act (33 USC § 1251 et seq.);
6. An AST that is regulated by the Department of Mines, Minerals and Energy under Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia;

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7. An AST used for the storage of products that are regulated pursuant to the federal Food, Drug, and Cosmetic Act (21 USC § 301 et seq.);

8. An AST that is used to store hazardous wastes listed or identified under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act), (42 USC § 6901 et seq.) or a mixture of such hazardous wastes and other regulated substances;

9. An AST that is used to store propane gas, butane gas or other liquid petroleum gases;

10. An AST used to store nonpetroleum hydrocarbon-based animal and vegetable oils;

11. A liquid trap or associated gathering lines directly related to oil or gas production, or gathering operations;

12. A surface impoundment, pit, pond, or lagoon;

13. A stormwater or wastewater collection system;

14. Equipment or machinery that contains oil for operational purposes, including but not limited to lubricating systems, hydraulic systems, and heat transfer systems;

15. An AST used to contain oil for less than 120 days when: (i) used in connection with activities related to the containment and cleanup of oil; (ii) used by a federal, state or local entity in responding to an emergency; or (iii) used temporarily on-site to replace permanent capacity storage;

16. Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers or capacitors;

17. A flow-through process tank;

18. Oily water separators;

19. An AST containing dredge spoils; or

20. An AST located on a farm or residence used for storing motor fuel for noncommercial purposes with an aggregate storage capacity of 1,100 gallons or less.

B. In addition to the complete exclusions listed in subsection A of this section, the following are partially excluded from this regulation in that they need not comply with the requirements contained in Part III (9 VAC 25-91-130 et seq., Pollution prevention requirements) of this chapter:

1. An AST with a capacity of 5,000 gallons or less used for storing heating oil for consumptive use on the premises where stored;

2. An AST storing asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure (60°F at 14.7 pounds per square inch absolute); and

3. Line pipe and breakout tanks of an interstate pipeline regulated under the Hazardous Liquid Pipeline Safety Act of 1979 or the Natural Gas Pipeline Safety Act of 1968, as amended.

C. In addition to the exclusions listed in subsections A and B of this section, asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure (60°F at 14.7 pounds per square inch absolute) are excluded for the purposes of any requirement to install groundwater monitoring wells or groundwater protection devices or to conduct groundwater characterization studies under Part IV (9 VAC 25-91-170, Oil discharge contingency plan (ODCP) requirements) and Part V (9 VAC 25-91-180 et seq., Groundwater characterization study and monitoring requirements) of this chapter.

9 VAC 25-91-40. Compliance dates.

A. Every operator shall comply with this regulation on its effective date unless a later date is otherwise specified.

B. Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., facilities not engaged in the resale of oil having an aboveground storage capacity of more than 25,000 gallons of oil) shall comply with Part III (9 VAC 25-91-130 et seq., Pollution prevention requirements) of this chapter within 120 days after the effective date of this chapter unless otherwise specified in this chapter. If compliance with Part III of this chapter necessitates extensive upgrades to the existing facility design, these exempted operators may submit a proposed extended compliance schedule and supporting explanation to the board no later than 90 days after the effective date of this chapter. The board may approve an extended compliance schedule where the circumstances so warrant.

C. Operators of existing ASTs and facilities that have previously met the registration requirement of § 62.1-44.34:19.1 of the Code of Virginia shall not have to resubmit the registration form until five years from the date of the initial registration unless title to an AST or facility is transferred (change of ownership) or the AST is converted or brought back into use after permanent closure, whichever occurs first.

D. Operators of facilities subject to Part IV (9 VAC 25-91-170, Oil discharge contingency plan (ODCP) requirements) of this chapter that are brought into use after the effective date of this chapter shall submit a complete application meeting all applicable requirements of this chapter no later than 120 days prior to commencement of operations.

1. The operator must receive approval of the ODCP by DEQ prior to commencement of facility operations.

2. The operators of facilities that have previously met the provisions of § 62.1-44.34:15 of the Code of Virginia for ODCP submittal shall not be required to resubmit the ODCP until that plan's approval expires. Upon expiration of approval of the ODCP, the facility operator shall submit an updated plan or certification of renewal of an existing plan according to 9 VAC 25-91-170 F.

E. As of July 1, 1997, an operator having obtained approval of the ODCP shall operate, maintain, monitor, and keep records pertaining to 9 VAC 25-91-170 A 18 of Part IV, Oil discharge contingency plan (ODCP) requirements, of this chapter and under the provisions of Part III, Pollution

Prevention Requirements (9 VAC 25-91-130 et seq.) of this chapter.

9 VAC 25-91-50. Statement of purpose.

The purpose of this chapter is to (i) establish requirements for registration of facilities and individual ASTs located within the Commonwealth; (ii) provide the board with the information necessary to identify and inventory facilities with an aggregate storage capacity of greater than 1,320 gallons of oil or individual ASTs with a storage capacity of greater than 660 gallons of oil; (iii) develop standards and procedures for operators of facilities with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil relating to the prevention of pollution from new and existing aboveground storage tanks; (iv) provide requirements for the development of facility oil discharge contingency plans for facilities with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil that will ensure that the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of an oil discharge, and to contain, clean up and mitigate an oil discharge within the shortest feasible time, where plans must address concerns for the effect of oil discharges on the environment as well as considerations of public health and safety; and (v) provide requirements for facilities and individual ASTs with an aggregate aboveground storage capacity of one million gallons or greater of oil to conduct a groundwater characterization study (GCS) within the geographic boundaries of a facility; to submit the GCS as part of the oil discharge contingency plan; to conduct a monthly gauging and inspection of GCS monitoring wells, monitoring of well head space and sampling and laboratory analysis of GCS monitoring wells; and to gather all observations and data maintained at the facility and compile and submit them as an annual report to the board.

9 VAC 25-91-60. Administrative fees.

A. This section establishes application fees for approval of contingency plans and for registration of a facility and aboveground storage tanks. Fees shall be paid in United States currency by check, draft or postal money order made payable to the Treasurer, Commonwealth of Virginia, P.O. Box 10150, Richmond, VA 23240. The required application for approval of an oil discharge contingency plan or the form for registration of a facility and aboveground storage tanks as required will be accepted only when the fees established by this section have been paid. Overpayments of application fees are refundable upon written request.

B. Facility and AST registration.

1. Registration fees shall be submitted for the following:
 - a. Initial registration;
 - b. New installations;
 - c. Conversion;
 - d. AST brought back into use after permanent closure;

- e. Registration renewal (every five years); or
- f. When title to a facility or AST is transferred (change of ownership).

2. Registration fees are as follows:

- a. Individual AST: new, existing, replaced or brought back into use after permanent closure = \$25;
- b. One facility with one AST = \$25;
- c. One facility with two or more ASTs = \$50;
- d. Two facilities with one AST at each facility = \$50;
- e. Two facilities with one AST at the first facility and two or more at the other = \$ 75;
- f. Two or more facilities with two or more ASTs each = \$100;
- g. Three facilities with one AST each = \$75; or
- h. Three facilities with two or more ASTs at the first facility and one AST at each other facility = \$100.

3. An operator of an AST subject to the registration requirements of this regulation shall submit a fee of \$25 to the board for each such AST up to a maximum of \$50 per facility. An operator of a single facility shall submit a maximum of \$50 for the facility and all ASTs. An operator of multiple facilities shall submit a maximum fee of \$100 to the board to register all of their facilities and ASTs.

4. Registration forms will not be accepted by the board as complete unless the applicable fee has been paid. No fee is required for a "notification" of an AST replacement (relocation of existing AST), upgrade, repair, or closure.

C. ODCP application.

1. Fee schedules are as follows:

- a. For a facility with an aggregate aboveground maximum storage or handling capacity from 25,000 gallons up to and including 100,000 gallons of oil the fee is \$718;
- b. For a facility with an aggregate aboveground maximum storage or handling capacity from 100,001 gallons up to and including one million gallons of oil the fee is \$2,155;
- c. For a facility with an aggregate aboveground maximum storage or handling capacity of greater than one million gallons of oil the fee is \$3,353; or
- d. For a pipeline, the fee shall be based on the average daily throughput of oil. Once that volume is determined, the application fee will be calculated per subdivisions a, b and c of this subdivision.

2. The fee for approval of a contingency plan encompassing more than one facility as described in 9

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VAC 25-91-170 D shall be based on the aggregate aboveground storage capacity of the facilities.

3. Fees shall only be paid upon initial submittal of an oil discharge contingency plan by an operator. Renewals, additions, deletions or changes to the plan are not subject to the administrative fee.

4. Application fees are refundable upon receipt of a written request no later than 30 days after submittal and prior to approval of the contingency plan.

5. Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicant's future use under this section.

9 VAC 25-91-70. Notices to the Department of Environmental Quality (DEQ) - Waste Division.

All written communications to the Department of Environmental Quality related to the requirements of this chapter, with the exception of fees paid directly to the Treasurer of the Commonwealth per 9 VAC 25-91-60 A, shall be addressed as follows:

Mailing Address:

Department of Environmental Quality - Waste Division
Office of Spill Response and Remediation
P.O. Box 10009
Richmond, VA 23240-0009

Street Address:

Department of Environmental Quality - Waste Division
Office of Spill Response and Remediation
629 E. Main Street
Richmond, VA 23219

9 VAC 25-91-80. Delegation of authority.

The executive director, or his designee, may perform any act of the board under this regulation, except as limited by § 62.1-44.14 of the Code of Virginia.

9 VAC 25-91-90. Evaluation of regulation.

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

B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendments, (ii) repeal this chapter or (iii) amend this

chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

PART II.

REGISTRATION, NOTIFICATION AND CLOSURE REQUIREMENTS.

9 VAC 25-91-100. Registration requirements.

A. Section 62.1-44.34:19.1 of the Code of Virginia requires an operator of a facility located within the Commonwealth with an aggregate aboveground storage capacity of more than 1,320 gallons of oil or an operator of an individual AST located within the Commonwealth with a storage capacity of more than 660 gallons of oil to register such facility or AST with the board and with the local director or coordinator of emergency services unless otherwise specified within this regulation.

B. In fixing responsibility for compliance with the registration requirements, DEQ shall look first to the owner or a duly authorized representative of the facility or AST.

C. A duly authorized representative may submit the registration on the owner's behalf.

1. A person is a duly authorized representative only if:

a. The authorization is made in writing by the owner and indicates that the representative has signatory authority for the registration;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a facility or an AST, a superintendent, a position of equivalent responsibility, or an individual or a position having overall responsibility for environmental matters for the company. (A duly authorized representative thus may be either a named individual or any individual occupying a named position.); and

c. The written authorization is submitted to the department with the registration form.

2. Changes to authorization. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements shall be submitted to the department prior to or together with any reports or information to be signed by a duly authorized representative.

3. Certification. Any person signing a registration document 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 ensure that qualified personnel properly gathered and evaluated the information submitted. Based on my

inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

D. The owner or a duly authorized representative of a new facility or AST, a converted facility or AST, or a facility or AST brought back into use after permanent closure shall register such facility or AST with the board and local director or coordinator of emergency services within 30 days after being brought into use.

E. Registration shall include the following information and other information that may be required if approved by the board:

1. Facility and AST owner and operator information (e.g., name, address, and phone numbers);
2. Facility information (e.g., name, type, address, contact person and phone numbers, and aggregate storage capacity);
3. Tank and piping information (e.g., storage capacity, type of design and construction standards);
4. Notification of changes (e.g., upgrade, repair, replacement and closure); and
5. Owner certification of information.

F. The owner or a duly authorized representative of the facility or AST shall renew the registration required by this section every five years or whenever title to the facility or AST is transferred (change of ownership), whichever occurs first.

G. A facility or AST installed after the effective date of this regulation, including an AST or facility operated by the federal government, shall not be registered without either (i) an inspection by the department or (ii) a review by the department of the permits, inspections, and certification of use required in accordance with the provisions of the Uniform Statewide Building Code, the BOCA® National Building Code and NFPA Code and obtained by the owner or a duly authorized representative from the local code officials or their designee. In the case of a regulated AST operated by the Commonwealth, the Department of General Services shall function as the local code official in accordance with § 36-98.1 of the Code of Virginia.

9 VAC 25-91-110. Notification.

A. An owner or a duly authorized representative of the facility or AST shall notify the board within 30 days after any AST:

1. Upgrade;
2. Major repair; or

3. Replacement (i.e., relocating or repositioning of an existing AST).

B. Notifications do not require a fee.

9 VAC 25-91-120. Aboveground storage tank closure.

A. After the effective date of this regulation, a facility or AST, including a facility or AST operated by the federal government, shall not be permanently closed without being registered and the fee paid and either (i) being inspected by the department or (ii) having a review performed by the department of the permits and inspections required in accordance with the provisions of the Uniform Statewide Building Code, the BOCA® National Building Code, and NFPA Code obtained by the owner or a duly authorized representative from the local code official or his designee.

1. For inspections by the department (e.g., where a permit is not issued by the local code official or his designee), at least 14 days' notice to the department is required prior to the commencement of closure operations. Notice shall be made by the owner or a duly authorized representative submitting the Intent to Permanently Close an AST form.

2. In the case of a regulated AST operated by the Commonwealth, the Department of General Services shall function as the local code official in accordance with § 36-98.1 of the Code of Virginia.

3. If the closure is in response to containment and cleanup actions that necessitate AST removal, the owner or a duly authorized representative of the facility or AST shall immediately notify the local code official and the department.

B. Closure operations shall be reported to the department by the owner or a duly authorized representative within 30 days after the permanent closure operation is completed using the AST Permanent Closure form.

C. Closure operations shall include the following:

1. Removal of all liquids, sludges, and vapors from the AST and associated piping. All wastes removed shall be disposed of in accordance with all applicable state and federal requirements.

2. For tanks being closed in place, the tank rendered vapor free. Provisions must be made for natural breathing to ensure that the tank remains vapor free. Vent lines shall remain open and maintained in accordance with the applicable codes. All access openings shall be secured (normally with spacers to assist ventilation). The AST shall be secured against tampering and flooding. The name of the product last stored, the date of permanent closure and PERMANENTLY CLOSED shall be stenciled in a readily visible location on the AST. Piping shall be disconnected. All pipes being closed in place shall be vapor free and capped or blind flanged.

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3. An assessment of the AST site conducted prior to completion of permanent closure operations.

a. In conducting the assessment, the owner or a duly authorized representative shall sample and test for the presence of petroleum hydrocarbons at the AST site in any area where contamination is likely to have occurred. Soil samples shall be tested in accordance with established EPA-approved analytical methods or other methods approved by the board.

(1) The owner or a duly authorized representative shall submit copies of the laboratory results, a description of the area sampled, a photograph of the site indicating sampled areas, and a site map indicating the location of the closed AST and associated piping as attachments to the closure form.

(2) If contaminated soils, contaminated ground water or free product as a liquid or vapor is discovered, the owner or a duly authorized representative shall immediately notify the board and conduct the cleanup in accordance with department requirements.

b. The department may consider an alternative to the soil sampling requirements of this subsection if the owner or a duly authorized representative of the AST demonstrates to the board's satisfaction that:

(1) There is no evidence of present or past contamination by providing records of monthly leak detection monitoring for the previous 12 months; and

(2) The facility or AST has operated an approved leak detection system.

4. A closure inspection conducted by either the department or the local building official, as discussed in subsection A of this section.

D. When deemed necessary by the board, the owner or a duly authorized representative of a facility or an AST that was permanently closed prior to the effective date of this regulation shall assess the site and close the AST in accordance with the requirements of this section.

E. The owner or a duly authorized representative shall maintain all records relating to compliance with this regulation for a period of not less than five years from the date the board receives notice of the completed closure. These records shall be made available to the board upon request.

PART III.

POLLUTION PREVENTION REQUIREMENTS.

9 VAC 25-91-130. Pollution prevention standards and procedures.

A. Section 62.1-44.34:15.1 of the Code of Virginia provides the following requirements for existing aboveground storage tanks at a facility with an aggregate aboveground

storage capacity of one million gallons of oil or greater or for an existing individual aboveground storage tank with a storage capacity of one million gallons of oil or greater, unless otherwise exempted.

1. Inventory control and testing for significant variations.

a. The following aboveground storage tanks shall not be subject to inventory control and testing for significant variations:

(1) Aboveground storage tanks totally off ground with all associated piping off ground;

(2) Aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil; and

(3) Aboveground storage tanks containing No. 5 or No. 6 oil for consumption on the premises where stored.

b. Each operator shall institute inventory control procedures capable of detecting a significant variation of inventory. A significant variation shall be considered a variation in excess of 1.0% of the storage capacity of each individual AST. For a refinery, a significant variation of inventory shall be considered a loss in excess of 1.0% by weight of the difference between the refinery's input and output. Reconciliations of inventory measurements shall be conducted monthly. If the significant variation persists for two consecutive reconciliation periods, the operator shall conduct an investigation to determine the cause of the variation. This investigation shall be completed within five working days of the end of the second reconciliation period. If this investigation does not reveal the cause of the inventory variation, the operator shall notify the board and the local director or coordinator of emergency services and shall conduct additional testing to determine the cause of the inventory variation. The testing method, schedule, and results of this additional testing shall be submitted to the board for review.

c. Inventory records shall be kept of incoming and outgoing volumes of oil from each tank. All tanks shall be gauged no less frequently than once every 14 days and on each day of normal operation. Physical measurements shall be reconciled to 60°F at 14.7 pounds per square inch absolute.

2. Formal inspections.

a. Each AST shall undergo formal external and internal tank inspections. The initial formal internal and external inspections for an existing AST shall be completed on or before June 30, 1998, unless otherwise specified within this regulation.

(1) All newly installed ASTs shall have initial formal inspections within five years after the date of installation.

(2) Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall complete the initial formal inspections within five years of the effective date of this regulation.

(3) An AST with a storage capacity of less than 12,000 gallons shall not be subject to the formal internal inspection unless the integrity of the AST is in question and an inspection is deemed necessary by the board.

b. Inspections shall be conducted in accordance with the provisions of API Standard 653 or procedure approved by the board. If construction practices allow external access to the tank bottom, a formal external inspection utilizing accepted methods of nondestructive testing or procedure approved by the board may be allowed in lieu of the internal inspection. An AST with a release prevention barrier or liner installed shall be internally inspected in accordance with the applicable provisions of API Standard 653 or API Recommended Practice 652 or procedure accepted by the board.

c. An API Standard 653 inspection conducted between January 1, 1991, and the effective date of this regulation may be accepted by the board if the operator provides supporting documentation to the board for review and approval.

3. Formal reinspections.

a. Each AST shall undergo an external reinspection every five years in accordance with the provisions of API Standard 653 after the initial formal external inspection has been conducted.

b. Each AST with a storage capacity of 12,000 gallons of oil or greater shall undergo an internal reinspection in accordance with the provisions of API Standard 653 every 10 years after the initial formal internal inspection has been conducted.

(1) The board may require the internal reinspection sooner than 10 years if there is an indication that the corrosion rate established by the initial internal inspection or a subsequent reinspection has increased.

(2) The internal reinspection period may be extended beyond 10 years if the operator can demonstrate to the board that an extension of the reinspection period is warranted. The operator shall provide supporting documentation to the board for review and approval at least six months prior to the date the reinspection is due.

c. An AST with a storage capacity of less than 12,000 gallons shall not be subject to the formal internal reinspection unless the integrity of the AST is in question and an inspection is deemed necessary by the board.

4. Secondary containment.

a. Each secondary containment dike or berm shall be maintained and evaluated or certified with respect to its compliance with the applicable requirements of 40 CFR Part 112, NFPA 30, and 29 CFR 1910.106. The operator shall have this evaluation or certification performed by a professional engineer or person approved by the board on or before June 30, 1998, and every 10 years thereafter, unless otherwise exempted.

(1) Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have this evaluation completed within five years after the effective date of this regulation and every 10 years thereafter.

(2) Operators of a newly installed AST shall have this evaluation completed within five years after the date of installation and every 10 years thereafter.

5. Safe fill and shutdown procedures.

a. Each operator shall provide safe fill and shutdown procedures including an audible staged alarm with immediate and controlled shutdown procedures, or equivalent measures established by the board, that will ensure overfilling of ASTs does not occur.

(1) All receipts of oil shall be authorized by the operator or facility personnel trained by the operator who shall ensure the volume available in the tank is greater than the volume of oil to be transferred to the tank before the transfer operation commences. The operator shall ensure the transfer operation is monitored continually, either by manual or automatic means, until complete. The operator shall ensure that all tank fill valves not in use are secured and that only the tank designated is receiving oil.

(2) All ASTs shall be equipped with a high level alarm or other appropriate mechanism approved by the board that will immediately alert the operator to prevent an overfill event. Activation of the high level alarm or other appropriate mechanism shall initiate an immediate and controlled emergency shutdown of the transfer, either by manual or automatic means. Each operator shall include this emergency shutdown procedure in the facility records and shall ensure that all facility personnel involved in the transfer operation are trained in this procedure. The alarm shall consist of a visual and audible device capable of alerting the operator, both by sight and hearing, to prevent an overfill situation. If the operator is in a control station, this alarm shall cause

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a warning light and audible signal in that station to activate. In addition, this system shall alarm on failure, malfunction or power loss. This high level alarm shall be tested prior to each receipt of oil. Records of testing shall be maintained at the facility.

b. All oil transfer areas where filling connections are made with vehicles shall be equipped with a spill containment system capable of containing and collecting those spills and overfills of a size typically encountered in transfer operations.

c. If installed, an automatic shutdown system utilized during transfer of oil shall include the capability to direct the flow of oil to another tank capable of receiving the transferred oil or the capability to shut down the pumping or transfer system. This automatic shutdown system shall be tested prior to each receipt of oil and records of testing shall be maintained at the facility.

d. All ASTs shall be equipped with a gauge that is readily visible and indicates the level of oil or quantity of oil in the tank. In addition, the storage capacity and tank identification number shall be clearly marked on the tank at the location of the gauge. These gauges shall be calibrated annually.

6. Cathodic protection of piping and pressure testing of piping.

a. The requirement for cathodic protection of piping shall apply to buried piping only. Cathodic protection shall be installed and maintained in accordance with the following applicable publications: API 1632, NFPA 30, NACE 0169, or NACE 0285. All piping above ground shall be protected from corrosion using methods and procedures referenced in NFPA 30, Chapter 2, Section 2-4.3 or a procedure approved by the board. Piping that passes through the wall of the containment berm or dike or under road crossings shall be protected from corrosion and damage using practices recommended in the publications listed in this subdivision.

b. All buried piping shall be hydrostatically tested every five years unless otherwise exempted. The use of oil as a test medium is acceptable if the flash point is greater than 120°F at 14.7 pounds per square inch absolute. All piping above ground shall be hydrostatically tested or inspected. The board will consider alternatives to the hydrostatic test requirement based on site specific conditions by an inspection method approved by the board. The operator shall submit any proposal regarding alternative methods to the board six months prior to its application. The operator shall conduct the initial hydrostatic test on or before June 30, 1998, unless otherwise exempted.

(1) Operators of a newly installed AST shall have this hydrostatic test completed within five years after

the date of installation and every five years thereafter.

(2) Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have this hydrostatic test completed within five years after the effective date of this regulation and every five years thereafter.

7. Visual daily inspection and weekly inspections.

a. The operator or a duly authorized representative shall conduct a daily visual inspection for each day of normal operation in the areas of the facility where this regulation applies. The facility person conducting the inspection shall document completion of this inspection by making and signing an appropriate notation in the facility records. This visual inspection shall include the following:

(1) A complete walk-through of the facility property in the areas where this chapter applies to ensure that no hazardous conditions exist;

(2) An inspection of ground surface for signs of leakage, spillage, or stained or discolored soils;

(3) A check of the berm or dike area for excessive accumulation of water and to ensure the dike or berm manual drain valves are secured;

(4) A visual inspection of the exterior tank shell to look for signs of leakage or damage; and

(5) An evaluation of the condition of the aboveground storage tank and appurtenances.

b. The operator or a duly authorized representative shall conduct a weekly inspection of the facility in the areas where this regulation applies, using a checklist that contains at least the items found in the weekly inspection checklist subdivision of this section. The checklist is not inclusive of all safety or maintenance procedures but is intended to provide guidance to the requirements within this regulation. The weekly checklist shall be maintained at the facility and provided to the board upon request. This checklist shall be signed and dated by the facility person or persons conducting the inspection and shall become part of the facility record.

(1) The operator of a new AST/facility shall develop the checklist within 90 days after the date of installation.

(2) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall develop the checklist within 90 days after the effective date of this chapter.

(3) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e.,

exempted facilities not engaged in the resale of oil) and who have developed a checklist within 90 days after June 30, 1993, shall be deemed to be in compliance with this checklist requirement as of the effective date of this chapter.

c. Sample - weekly inspection checklist for aboveground storage tank systems:

____ (1) Containment dike or berm in satisfactory condition.

____ (2) Containment area free of excess standing water or oil.

____ (3) Gate valves used for emptying containment areas secured.

____ (4) Containment area/base of tank free of high grass, weeds, and debris.

____ (5) Tank shell surface, including any peeling areas, welds, rivets/bolts, seams, and foundation, visually inspected for areas of rust and other deterioration.

____ (6) Ground surface around tanks and containment structures and transfer areas checked for signs of leakage.

____ (7) Leak detection equipment in satisfactory condition.

____ (8) Separator or drainage tank in satisfactory condition.

____ (9) Tank water bottom drawoffs not in use are secured.

____ (10) Tank fill valves not in use are secured.

____ (11) Valves inspected for signs of leakage or deterioration.

____ (12) Inlet and outlet piping and flanges inspected for leakage.

8. Training of individuals.

a. To ensure proper training of individuals conducting inspections required by subdivision 7 of this subsection, the operator of a facility shall train personnel based on the following requirements:

(1) Each facility operator shall establish a training program for those facility personnel conducting the daily visual and weekly inspections of the facility and shall document completion of this training in the facility records. The required training may be conducted by the operator or by a third party. The training program established shall reflect current conditions of the facility.

(a) The operator of a new facility shall establish the training program within six months after being brought into use.

(b) The operator of each facility exempted under § 62.1-44.34:17 D (i.e., exempted facilities not engaged in the resale of oil) of the Code of Virginia shall establish the training program within six months after the effective date of this chapter.

(c) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have developed a training program within six months after June 30, 1993, shall be deemed to be in compliance with this training program requirement as of the effective date of this chapter.

(2) The required training shall be conducted for facility personnel. Personnel not receiving this initial training and who will be conducting these inspections shall receive the training prior to conducting any inspection.

(a) The operator of a new facility shall conduct the personnel training within 12 months after being brought into use and prior to personnel conducting any inspection.

(b) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall conduct the personnel training within 12 months after the effective date of this chapter.

(c) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have conducted the personnel training within 12 months after June 30, 1993, shall be deemed to be in compliance with this personnel training requirement as of the effective date of this chapter.

(3) Initial training shall address at a minimum:

(a) Basic information regarding occupational safety, hazard recognition, personnel protection, and facility operations;

(b) The procedures to be followed in conducting the daily visual and weekly facility inspections;

(c) The procedures to be followed upon recognition of a hazard or the potential for a hazard; and

(d) The procedure for evaluating the condition of the aboveground storage tank and appurtenances.

(4) The operator of a facility shall train facility personnel upon any changes to the contents of the initial training program or every three years and shall make this retraining action part of the facility records.

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(5) All formal inspections and testing required by subdivision 2 of this subsection shall be conducted by a person certified to conduct the inspection or test. This certification shall be accomplished in accordance with the provisions of API Standard 650 and API Standard 653 or a procedure approved by the board. Proof of this certification shall be maintained in the facility records. The results of all tests and inspections required by subdivision 2 of this subsection shall be maintained at the facility or at a location approved by the board for the life of the tank, but for no less than five years.

9. Leak detection. The operator shall operate, maintain, monitor and keep records of the system established for early detection of a discharge to groundwater as required by 9 VAC 25-91-170 A 18 and contained in the facility's approved ODCP. These activities shall be inspected and approved by the department.

B. Section 62.1-44.34:15.1 of the Code of Virginia provides the following requirements for existing aboveground storage tanks at facilities with an aggregate aboveground storage capacity of less than one million gallons but equal to or more than 25,000 gallons of oil or for an existing individual aboveground storage tank with a storage capacity of less than one million but equal to or more than 25,000 gallons of oil, unless otherwise exempted.

1. Inventory control and testing for variations.

a. The following aboveground storage tanks shall not be subject to inventory control and testing for significant variations:

(1) Aboveground storage tanks totally off ground with all associated piping off ground;

(2) Aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil; and

(3) Aboveground storage tanks containing No. 5 or No. 6 oil for consumption on the premises where stored.

b. Each operator shall institute inventory control procedures capable of detecting a significant variation of inventory. A significant variation shall be considered a variation in excess of 1.0% of the storage capacity of each individual AST. For a refinery, a significant variation of inventory shall be considered a loss in excess of 1.0% by weight of the difference between the refinery's input and output. Reconciliations of inventory measurements shall be conducted monthly. If the significant variation persists for two consecutive reconciliation periods, the operator shall conduct an investigation to determine the cause of the variation. This investigation shall be completed within five working days of the end of the second reconciliation period. If this investigation does not reveal the cause of the inventory variation, the

operator shall notify the board and the local director or coordinator of emergency services and shall conduct additional testing to determine the cause for the inventory variation. The testing method, schedule, and results of this additional testing shall be submitted to the board for review.

c. Inventory records shall be kept of incoming and outgoing volumes of oil from each tank. All tanks shall be gauged no less frequently than once every 14 days and on each day of normal operation. Physical measurements shall be reconciled to 60°F at 14.7 pounds per square inch absolute.

2. Secondary containment.

a. Each secondary containment dike or berm shall be maintained and evaluated or certified to be in compliance with the applicable requirements of 40 CFR Part 112, NFPA 30, and 29 CFR Part 1910.106. The operator shall have this evaluation or certification performed by a professional engineer or person approved by the board on or before June 30, 1998, and every 10 years thereafter, unless otherwise exempted.

(1) Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have this evaluation completed within five years after the effective date of this chapter and every 10 years thereafter.

(2) Operators of a newly installed AST shall have this evaluation completed within five years after the date of installation and every 10 years thereafter.

3. Safe fill and shutdown procedures.

a. Each operator shall provide safe fill and shutdown procedures that will ensure overfilling of ASTs does not occur. All receipts of oil shall be authorized by the operator or facility personnel trained by the operator who shall ensure the volume available in the tank is greater than the volume of oil to be transferred to the AST before the transfer operation commences. The operator shall ensure the transfer operation is monitored continually, either by manual or automatic means, until complete. The operator shall ensure that all tank fill valves not in use are secured and that only the tank designated is receiving oil.

b. All oil transfer areas where filling connections are made with vehicles shall be equipped with a spill containment system capable of containing and collecting those spills and overfills of a size typically encountered in transfer operations.

c. If installed, an automatic shutdown system utilized during transfer of oil shall include the capability to direct the flow of oil to another tank capable of receiving the transferred oil or the capability to shut down the pumping or transfer system. This automatic

shutdown system shall be tested prior to each receipt of oil and records of testing shall be maintained at the facility.

d. All AST's shall be equipped with a gauge that is readily visible and indicates the level of oil or quantity of oil in the tank. In addition, the storage capacity and tank identification number shall be clearly marked on the tank at the location of the gauge. These gauges shall be calibrated annually.

4. Pressure testing of piping.

a. All piping above ground shall be protected from corrosion using methods and procedures referenced in NFPA 30, Chapter 2, Section 2-4.3 or a procedure approved by the board. Piping that passes through the wall of the containment berm or dike or under road crossings shall be protected from corrosion and damage using practices recommended in the above publications.

b. All buried piping shall be hydrostatically tested every five years, unless otherwise exempted. The use of oil as a test medium is acceptable if the flash point is greater than 120°F at 14.7 pounds per square inch absolute. All piping above ground shall be hydrostatically tested or inspected. The board will consider alternatives to the hydrostatic test requirement based on site specific conditions by an inspection method approved by the board. The operator shall submit any proposal regarding alternative methods to the board six months prior to its application. The operator shall conduct the initial hydrostatic test on or before June 30, 1998, unless otherwise exempted.

(1) Operators of a newly installed AST shall have this hydrostatic test completed within five years after the date of installation and every five years thereafter.

(2) Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have this hydrostatic test completed within five years after the effective date of this regulation and every five years thereafter.

5. Visual daily inspection and weekly inspections.

a. The operator or the operator's authorized representative shall conduct a daily visual inspection for each day of normal operation in the areas of the facility where this regulation applies. The facility person conducting the inspection shall document completion of this inspection by making and signing an appropriate notation in the facility records. This visual inspection shall include the following:

(1) A complete walk-through of the facility property in the areas where this regulation applies to ensure that no hazardous conditions exist;

(2) An inspection of the ground surface for signs of leakage, spillage, or stained or discolored soils;

(3) A check of the berm or dike area for excessive accumulation of water and to ensure the dike or berm manual drain valves are secured;

(4) A visual inspection of the exterior tank shell to look for signs of leakage or damage; and

(5) An evaluation of the condition of the aboveground storage tank and appurtenances.

b. The operator or a duly authorized representative shall conduct a weekly inspection of the facility in the areas where this regulation applies, using a checklist which contains at least the items found in the weekly inspection checklist subdivision of this section. The checklist is not inclusive of all safety or maintenance procedures but is intended to provide guidance to the requirements within this regulation. The weekly checklist shall be maintained at the facility and provided to the board upon request. This checklist shall be signed and dated by the facility person or persons conducting the inspection and shall become part of the facility record.

(1) The operator of a new AST/facility shall develop the checklist within 90 days after the date of installation.

(2) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall develop the checklist within 90 days after the effective date of this chapter.

(3) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have developed a checklist within 90 days after June 30, 1993, shall be deemed to be in compliance with this checklist requirement as of the effective date of this chapter.

c. Sample - weekly inspection checklist for aboveground storage tank systems:

___ (1) Containment dike or berm in satisfactory condition.

___ (2) Containment area free of excess standing water or oil.

___ (3) Gate valves used for emptying containment areas secured.

___ (4) Containment area/base of tank free of high grass, weeds, and debris.

___ (5) Tank shell surface, including any peeling areas, welds, rivets/bolts, seams, and foundation, visually inspected for areas of rust and other deterioration.

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____ (6) Ground surface around tanks and containment structures and transfer areas checked for signs of leakage.

____ (7) Leak detection equipment in satisfactory condition.

____ (8) Separator or drainage tank in satisfactory condition.

____ (9) Tank water bottom drawoffs not in use are secured.

____ (10) Tank fill valves not in use are secured.

____ (11) Valves inspected for signs of leakage or deterioration.

____ (12) Inlet and outlet piping and flanges inspected for leakage.

6. Training of individuals.

a. To ensure proper training of individuals conducting inspections required by subdivision 5 of this subsection, the operator of a facility shall train personnel based on the following requirements:

(1) Each facility operator shall establish a training program for those facility personnel conducting the daily visual and weekly inspections of the facility and shall document completion of this training in the facility records. The required training may be conducted by the operator or by a third party. The training program established shall reflect current conditions of the facility.

(a) The operator of a new facility shall establish the training program within six months after being brought into use.

(b) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall establish the training program within six months after the effective date of this chapter.

(c) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have developed a training program within six months after June 30, 1993, shall be deemed to be in compliance with this training program requirement as of the effective date of this chapter.

(2) The required training shall be conducted for facility personnel. Personnel not receiving this initial training and who will be conducting these inspections shall receive the training prior to conducting any inspection.

(a) The operator of a new facility shall conduct the personnel training within 12 months after being

brought into use and prior to personnel conducting any inspection.

(b) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall conduct the personnel training within 12 months after the effective date of this chapter.

(c) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have conducted the personnel training within 12 months after June 30, 1993, shall be deemed to be in compliance with this personnel training requirement as of the effective date of this chapter.

(3) Training shall address at a minimum:

(a) Basic information regarding occupational safety, hazard recognition, personnel protection, and facility operations;

(b) The procedures to be followed in conducting the daily visual and weekly facility inspections;

(c) The procedures to be followed upon recognition of a hazard or the potential for a hazard; and

(d) The procedure for evaluating the condition of the aboveground storage tanks and appurtenances.

(4) The operator of a facility shall retrain facility personnel upon any changes to the contents of the initial training program or every three years and shall make this retraining action part of the facility records.

7. Leak detection. The operation, maintenance, monitoring and recordkeeping of the system established for early detection of a discharge to groundwater as required by 9 VAC 25-91-170 A 18 and contained in the facility's approved ODCP shall be inspected and approved by the department.

9 VAC 25-91-140. Performance standards for aboveground storage tanks installed, retrofitted, or brought into use.

A. All ASTs shall be built in accordance with the applicable design standards adopted by Underwriters Laboratories, the American Petroleum Institute, the Steel Tank Institute or other standard approved by the board.

B. All ASTs shall be strength tested before being placed in use in accordance with the applicable code or standard under which they were built.

C. ASTs that have the tank bottom in direct contact with the soil shall have a determination made by a corrosion professional as to the type and degree of corrosion protection needed to ensure the integrity of the tank system during the

use of the tank. If a survey indicates the need for corrosion protection for the new installation, corrosion protection shall be provided.

D. ASTs installed after the effective date of this chapter shall have a release prevention barrier (RPB) installed either under or in the bottom of the tank. The RPB shall be capable of: (i) preventing the release of the oil and (ii) containing or channeling the oil for leak detection.

E. Existing ASTs that are retrofitted (reconstruction or bottom replacement) or brought back into use shall be brought into compliance with subsections A, B, C, and D of this section. The operator shall submit a schedule to the board of the work to be performed in order to bring the existing AST into compliance with new-built construction standards. This compliance schedule shall be submitted to the board no less than six months prior to the anticipated completion date.

F. Operators of ASTs installed, retrofitted (reconstruction or bottom replacement) or brought back into use shall also comply with 9 VAC 25-91-130 A or 9 VAC 25-91-130 B, whichever is applicable.

G. All newly installed ASTs shall be constructed and installed in a manner consistent with the applicable standards and requirements found in NFPA 30 and the BOCA® National Building Code or other standards approved by the board. Approval and any applicable permits shall be obtained from the local building official before construction starts.

H. Compliance dates for subsections A through G of this section.

1. Operators of a newly installed, retrofitted or brought-back-into-use facility or AST shall comply with the requirements of this section within 30 days of being placed into service.

2. Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall comply with these requirements within 120 days of the effective date of this chapter.

3. Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have met these requirements on or before June 30, 1993, shall be deemed to be in compliance with these requirements as of the effective date of this chapter.

9 VAC 25-91-150. Recordkeeping and access to facilities.

A. Each operator of a facility subject to this chapter shall maintain the following records:

1. All records relating to all required measurements and inventory of oil at the facility;
2. All records relating to required tank/pipe testing;

3. All records relating to spill events and other discharges of oil from the facility;

4. All supporting documentation for developed contingency plans;

5. All records for implementation and monitoring of leak detection and applicable provisions of 9 VAC 25-91-170 A 18 of Part IV, Oil discharge contingency plan (ODCP) requirements, of this chapter; and

6. Any records required to be kept by statute or regulation of the board.

B. These records shall be kept by the operator of a facility at the facility or at an alternate location approved by the board for a period of no less than five years unless otherwise indicated.

C. Upon request, each operator shall make these records available to the board and to the director or coordinator of emergency services for the locality in which the facility is located or to any political subdivision within one mile of the facility.

D. Operators shall maintain all records relating to compliance with this regulation for a period of no less than five years from the date the board receives notice of the closure unless otherwise indicated. These records shall be made available to the board at any time upon request.

9 VAC 25-91-160. Variances to the requirements of Part III (9 VAC 25-91-130 et seq.) of this chapter.

A. General criteria for granting a variance on a case-by-case basis.

1. The board is required by § 62.1-44.34:15.1 of the Code of Virginia to establish the criteria to grant variances of the AST pollution prevention requirements on a case-by-case basis and by regulation for categories of ASTs. Any person affected by these regulations may petition the board to grant a variance of any requirement of Part III (9 VAC 25-91-130 et seq.) of this chapter.

2. The board will not grant any petition for a variance related to:

- a. Definitions;
- b. Registration;
- c. Classification of aboveground storage tanks;
- d. Oil discharge contingency plans; or
- e. Any requirement for which the petitioner is currently under enforcement action by the board.

3. The board may grant a variance if:

a. The applicant demonstrates to the satisfaction of the board that the alternate design or operation will result in a facility that is equally capable of preventing pollution of state water, land, and storm drains from the discharge of oil from new and existing ASTs. If the variance would extend a statutory deadline, the

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petitioner shall demonstrate that a good faith effort to comply with the statutory deadline was made.

b. Granting the variance will not result in an unreasonable risk to human health or the environment; and

c. Granting the variance will not result in a conflict with applicable local codes or ordinances.

4. In rendering a decision, the board may:

a. Deny the petition;

b. Grant the variance as requested;

c. Grant a modified variance which:

(1) Specifies additional or modified requirements;

(2) Includes a schedule for:

(a) Periodic review of the modified requirements;

(b) Implementation by the facility of such control measures as the board finds necessary in order that the variance may be granted; or

(c) Compliance, including increments of progress, by the facility with each requirement of the variance; or

(3) Specifies the termination date of the variance.

d. Grant a partial variance that:

(1) Specifies a particular part of the requirement;

(2) Specifies a particular part of the request;

(3) Includes a schedule for:

(a) Periodic review of the partial requirements;

(b) Implementation by the facility of such control measures as the board finds necessary in order that the variance may be granted; or

(4) Specifies the termination date of the variance.

B. Administrative procedures.

1. General requirements for the submission of a petition by the owner or a duly authorized representative.

a. All petitions submitted to the board shall include:

(1) The owner's or duly authorized representative's name and address;

(2) A citation of the regulatory requirement from which a variance is requested;

(3) An explanation of the need or desire for the proposed action, including the reason the existing requirement is not achievable or is impractical;

(4) An explanation of the impact to applicable local codes and ordinances;

(5) A description of the proposed action;

(6) The duration of the variance, if applicable;

(7) The potential impact of the variance on human health or the environment and a justification of the proposed action's ability to provide equivalent protection of human health and the environment as would compliance with the regulatory requirements;

(8) Other information believed by the applicant to be pertinent; and

(9) The following statements signed by the owner or a duly authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. The petition, if granted, will not be in violation of any local codes or ordinances or pose an unreasonable risk to human health or the environment. I certify that I know of no enforcement action against or pending (the petitioner) for compliance with this regulation. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

2. In addition to the general information required of all petitioners under subdivision B 1 of this section, the petitioner shall submit other information as may be required by the board.

C. Petition processing.

1. After receiving a petition that includes the information required in subdivision B 1 of this section, the board will determine whether the information received is sufficient to render the decision. If the information is deemed to be insufficient, the board will specify additional information needed and request that it be furnished.

2. The petitioner may submit the additional information requested, may attempt to show that no reasonable basis exists for the request for additional information, or may withdraw the petition. If the board agrees that no reasonable basis exists for the request for additional information, the board will act in accordance with subdivision C 3 b of this section. If the board continues to believe that a reasonable basis exists to require the submission of such information, the board will deny the petition.

3. After the petition is deemed complete:

a. The board will review the petition;

b. After evaluating the petition, the board will notify the applicant of the following final decision:

(1) Petition is denied;

(2) Requested variance is granted; or

(3) Modified or partial variance is granted;

c. The board shall send written notification of the variance to the chief administrative officer of the locality in which the facility is located;

d. If the board grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the board that the petitioner has failed to comply with any variance requirements.

D. Variance by regulation for categories of ASTs.

1. ASTs totally off ground with all associated piping off ground shall not be subject to inventory control or testing for significant variation.

2. ASTs with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil shall not be subject to inventory control or testing for significant variation.

3. ASTs containing No. 5 or No. 6 fuel oil for consumption on the premises where stored shall not be subject to inventory control or testing for significant variation.

4. ASTs with Release Prevention Barriers (RPBs) with all associated piping off ground, with an established corrosion rate and cathodic protection that protects the entire area of the tank bottom shall not be subject to inventory control or testing for significant variation.

5. ASTs with Release Prevention Barriers (RPBs) with all associated piping off ground and with secondary containment that is 72 hours impermeable shall not be subject to inventory control or testing for significant variation.

6. ASTs that meet the construction and installation standards of STI - F911-93, F921-93, or F941-94 or equivalent standards approved by the board shall not be subject to inventory control or testing for significant variation.

7. For refineries with a continuous leak detection monitoring system and cathodic protection of the AST and piping, a significant variation of inventory shall be considered a loss in excess of 3.0% by weight of the difference between the refinery's input and output.

8. Vaulted tanks meeting UL 2245 or an equivalent standard approved by the board shall not be subject to inventory control or testing for significant variation.

9. An AST used in the production/manufacturing process with full containment that is 72 hours impervious shall not be subject to inventory control or testing for significant variation.

10. An AST of 12,000 gallons or less with full containment that is 72 hours impervious, inside a

building and used for the storage of heating oil consumed on the premises shall not be subject to inventory control or testing for significant variation.

PART IV.
OIL DISCHARGE CONTINGENCY PLAN (ODCP)
REQUIREMENTS.

9 VAC 25-91-170. Contingency plan requirements and approval.

A. Section 62.1-44.34:15 of the Code of Virginia requires that all facility oil discharge contingency plans shall provide for the use of the best available technology (economically feasible, proven effective and reliable and compatible with the safe operation of the facility) at the time the plan is submitted for approval and, in order to be approvable, shall contain, at a minimum, the following requirements:

1. The name of the facility, geographic location and access routes from land and water if applicable;

2. The names of the operators of the facility including address and phone number;

3. A physical description of the facility consisting of a plan of the facility which identifies the applicable oil storage areas, transfer locations, control stations, above and below ground oil transfer piping within the facility boundary (and including adjacent easements and leased property), monitoring systems, leak detection systems and location of any safety protection devices;

4. A copy of the material safety data sheet (MSDS) or its equivalent for each oil or groups of oil with similar characteristics stored, transferred or handled at the facility. To be equivalent, the submission shall contain the following:

a. Generic or chemical name of the oil;

b. Hazards involved in handling the oil; and

c. A list of fire-fighting procedures and extinguishing agents effective with fires involving each oil or groups of oil demonstrating similar hazardous properties which require the same fire-fighting procedures;

5. The maximum storage or handling capacity of the facility and the individual tank capacities or, in the case of a pipeline, the average daily throughput of oil;

6. A complete listing, including 24-hour phone numbers, of all federal, state and local agencies required to be notified in the event of a discharge;

7. The position title of the individuals responsible for making the required notifications and a copy of the notification check-off list;

8. The position title, address and phone number of the individuals authorized to act on behalf of the operator to implement containment and cleanup actions. This individual shall be available on a 24-hour basis to ensure

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the appropriate containment and cleanup actions are initiated;

9. The position title of the individuals designated by the operator to ensure compliance during containment and cleanup of a discharge with applicable federal, state and local requirements for disposal of both solid and liquid wastes;

10. Identification and ensurance by contract or other means acceptable to the board of the availability of private personnel and equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge. This contract or agreement shall ensure a certain response within the shortest feasible time. The board will accept a letter of understanding between the operator and the response contractors which attests to this capability being readily available. Membership in a cleanup cooperative or other response organization is also acceptable. A listing of contractor or cooperative capabilities, including an inventory of the equipment and specification of the other information required by subdivision A 12 of this section, shall be included unless these capabilities are already on file with the board;

11. Assessment of the worst case discharge, including measures to limit the outflow of oil, response strategy and operational plan. For the purpose of this regulation, the worst case discharge is the instantaneous release of the volume of the largest tank on the facility (125% of the volume of the largest tank for facilities with multiple tanks within a single containment dike) during adverse weather conditions. Facilities shall take into consideration that due to hydraulic pressure of the release, the secondary containment will not contain this volume in its entirety. The worst case discharge for a pipeline shall be based upon the volume of a discharge calculated using the maximum pressure, velocity, and elevation, and the largest pipe size and pipeline location. If facility design and operation indicates that this worst case discharge scenario does not meet the intent of this chapter, the board may require submission of other worst case scenarios on a facility-specific basis;

12. Inventory of facility containment equipment, including specification of quantity, type, location, time limits for gaining access to the equipment, and identification of facility personnel trained in its use;

13. Identification and location of natural resources at risk (including, but not limited to, surface waters as indicated on the applicable USGS quadrangle maps, groundwater, public water supplies, public and private water wells and springs, state or federal wildlife management areas, wildlife refuges, management areas, sanctuaries, property listed on the National Register of Historic Places and property listed on the National Register of Natural Landmarks), priorities for protection and means of protecting these resources;

a. In addition to the requirements set forth in this subdivision, the operator of a facility with an aggregate aboveground storage or handling capacity greater than one million gallons of oil shall conduct a groundwater characterization study (GCS) within the geographic boundaries of the facility to be submitted as part of the contingency plan. The operator of such a facility shall utilize upgradient and downgradient monitoring wells to satisfy this requirement. At the time of a discharge, the operator of such a facility shall conduct further characterization of the groundwater as required by the board;

b. For purposes of satisfying the requirement to identify and locate natural resources at risk, the operator of a pipeline shall identify surface waters as indicated on the applicable USGS quadrangle maps, public water supplies, state or federal wildlife management areas, wildlife refuges, management areas, sanctuaries, property listed on the National Register of Historic Places and property listed on the National Register of Natural Landmarks which could reasonably be expected to be impacted by the discharge. At the time of a discharge, the operator of a pipeline shall conduct a complete groundwater characterization study as required by the board and identify other natural resources at risk including public and private wells or springs which could reasonably be expected to be impacted by the discharge;

14. Identification and location of any municipal or other services (including, but not limited to, storm drains, storm water collection systems and sanitary sewer systems) at risk, notification procedures applicable and means of protection of these services. The identification and location of all municipal services shall include those services for which official records are available. The operator of a pipeline shall determine which sections of the system are located in areas that would require an immediate response by the operator to prevent hazards to the public if a discharge occurred;

15. If applicable, the facility's responsibility for responding to a discharge from a vessel moored at the facility and the identity of the sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

16. A description of training, equipment testing, and periodic unannounced oil discharge drills conducted by the operator to mitigate or prevent the discharge or the substantial threat of a discharge;

17. The facility's oil inventory control procedures. Facilities shall ensure that this control procedure is capable of providing for the detection of a discharge of oil within the shortest feasible time in accordance with recognized engineering practices and industry measurement standards;

18. A detailed description of a system for early detection of a discharge to groundwater, utilizing up-gradient and

down-gradient monitoring wells or other groundwater protection measures acceptable to the board. The system will be operated, maintained and monitored by the operator in a manner approved and inspected by the department under the pollution prevention requirements of Part III (9 VAC 25-91-130 et seq.) of this chapter. Operators subject to subdivision A 13 a of this section may utilize such wells to meet this requirement;

19. The procedures to be followed, upon detection of a discharge of oil, for testing and inspection of all tanks, piping and all oil transfer associated equipment that could reasonably be expected to be a point source for the discharge. These procedures shall be conducted within the shortest feasible time, include a progression of written procedures from visual inspection to formal testing and be conducted in accordance with recognized engineering practices;

20. The facility's preventive maintenance procedures applicable to the critical equipment of an oil storage and transfer system as well as the maximum pressure for each oil transfer system. The term "critical equipment" shall mean equipment that affects the safe operation of an oil storage and handling system;

21. A description of the security procedures used by facility personnel to avoid intentional or unintentional damage to the facility; and

22. A post-discharge review procedure to assess the discharge response in its entirety.

B. All nonexempt facility operators shall file with the board the application form for approval of the contingency plan. This form shall be submitted with the required contingency plan and shall be completed insofar as it pertains to the facility. The operator shall sign and date the certification statement on the application form. If the operator is a corporation, the form shall be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the form shall be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the form shall be signed by a general partner or the sole proprietor. All forms shall be acknowledged before a Notary Public.

C. Contingency plans shall be filed with and approved by the board. The plan shall be submitted to the board at the address specified in 9 VAC 25-91-60 A. A copy of the original with the facility-specific information and the approval letter shall be retained at the facility and shall be readily available for inspection.

D. An operator of multiple facilities may submit a single contingency plan encompassing more than one facility if the facilities are located within the defined boundaries of the same city or county or if the facilities are similar in design and operation. The plan shall contain site specific information as required by subsection A of this section for each facility. The site-specific information shall be placed in appendices to the plan.

Upon renewal of an approved contingency plan submitted under this subsection, the board shall consider the individual facilities subject to all provisions of subsections E through J of this section.

E. Oil discharge contingency plans shall be reviewed, updated if necessary and resubmitted to the board for approval every 60 months from the date of approval unless significant changes occur sooner. Operators shall notify the board of significant changes and make appropriate amendments to the contingency plan within 30 days of the occurrence. For the purpose of this chapter, a significant change includes the following:

1. A change of operator of the facility;
2. An increase in the maximum storage or handling capacity of the facility that would change the measures to limit the outflow of oil, response strategy or operational plan in the event of the worst case discharge;
3. A decrease in the availability of private personnel or equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge;
4. A change in the type of product dealt in, stored or handled by any facility covered by the plan for which a MSDS or its equivalent has not been submitted as part of the plan; or
5. A change in the method or operation utilized for the early detection of a discharge to groundwater.

F. Updated plans or certification for renewal of an existing plan shall be submitted to the board for review and approval not less than 90 days prior to expiration of approval of the current plan. Submittal of the certification for renewal for an existing plan shall be made in accordance with the provisions of subsection B of this section. All notifications of changes, renewals, submissions and updates of plans required by this chapter shall be directed to the respective regional office.

G. An oil discharge exercise may be required by the board to demonstrate the facility's ability to implement the contingency plan. The board will consult with the operator of the facility prior to initiating an exercise. Where appropriate, the board will ensure coordination with federal agencies prior to initiation of an exercise.

H. The board may, after notice and opportunity for a conference pursuant to § 9-6.14:11 of the Code of Virginia, deny or modify its approval of an oil discharge contingency plan if it determines that:

1. The plan as submitted fails to provide sufficient information for the board to process, review and evaluate the plan or fails to ensure the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of a discharge, and to contain and clean up an oil discharge within the shortest feasible time;

Proposed Regulations

2. A significant change has occurred in the operation of the facility covered by the plan;

3. The facility's discharge experience or its inability to implement its plan in an oil spill discharge exercise demonstrates a necessity for modification; or

4. There has been a significant change in the best available technology since the plan was approved.

I. The board, after notice and opportunity for hearing, may revoke its approval of an oil discharge contingency plan if it determines that:

1. Approval was obtained by fraud or misrepresentation;

2. The plan cannot be implemented as approved;

3. A term or condition of approval of this chapter has been violated; or

4. The facility is no longer in operation.

J. A Facility Response Plan (FRP) developed pursuant to § 4202 of the federal Oil Pollution Act of 1990, Pub. L. No. 101-380, 33 USCA § 2716 (1996), may be accepted as meeting the requirements of subdivisions A 1 through A 22 of this section. The operator shall submit a copy of the FRP and a copy of the currently valid FRP approval letter for the facility for review and approval by the board. The FRP shall contain a cross reference in order to index pages for the specific requirements of the ODCP. The FRP shall also contain the satisfaction of the requirements of subdivisions A 13 a and A 18 of this section. This information shall be resubmitted in accordance with the renewal period established by federal statute or regulation but in no instance shall the renewal period exceed five years. The board shall be notified of any plan amendments.

PART V.

GROUNDWATER CHARACTERIZATION STUDY AND MONITORING REQUIREMENTS.

9 VAC 25-91-180. Groundwater characterization study (GCS).

A. Section 62.1-44.34:15 of the Code of Virginia requires that the operator conduct a Groundwater Characterization Study (GCS) within the geographic boundaries of each facility with an aggregate aboveground storage capacity of one million gallons or greater of oil.

B. The Groundwater Characterization Study and Groundwater Monitoring Guidelines developed by the board shall be used for this procedure.

C. The GCS shall be submitted as part of the Oil Discharge Contingency Plan. (See Part IV, Oil discharge contingency plan (ODCP), 9 VAC 25-91-170 of this chapter.)

9 VAC 25-91-190. GCS well monitoring.

The Groundwater Characterization Study and Groundwater Monitoring Guidelines developed by the board shall be used for this procedure.

1. All GCS wells required by 9 VAC 25-91-170 A 13 a in the ODCP requirements shall be:

a. Gauged monthly for depth-to-water measurements;

b. Sampled quarterly at the wellhead space of each well for the presence of petroleum vapors; and

c. Sampled annually for laboratory analysis to determine the presence of petroleum or petroleum by-product contamination.

2. This gauging and sampling should not be confused with the monitoring of leak detection wells.

9 VAC 25-91-200. Reporting.

All observations and data gathered as a result of requirements in 9 VAC 25-91-190 shall be maintained at the facility, compiled, and submitted to the board annually.

1. The Groundwater Characterization Study and Groundwater Monitoring Guidelines developed by the board shall be used as guidance for this submittal.

2. Observation data submitted to the board shall include:

a. Depth-to-water measurements;

b. Headspace readings;

c. Groundwater analytical results;

d. Field and trip blank results; and

e. Analytical methods used and laboratory data including chain-of-custody forms.

9 VAC 25-91-210. Response.

Should any observations or data indicate the presence of petroleum hydrocarbons in groundwater, the results shall be immediately reported to the board and to the local director or coordinator of emergency services appointed pursuant to § 44-146.19 of the Code of Virginia.

PART VI.

PUBLICATIONS INCORPORATED BY REFERENCE.

9 VAC 25-91-220. Referenced publications.

A. The following documents or portions thereof are incorporated by reference for this regulation:

1. Underwriters Laboratories Standards: Specification 142, "Steel Aboveground Tanks for Flammable and Combustible Liquids," Seventh Edition;

2. American Petroleum Institute (API) Standards:

a. API 12B: Specification 12B and Supplement 2, October 1, 1990, "Specification for Bolted Tanks for Storage of Production Liquids," Thirteenth Edition;

b. API 12D: Specification 12D and Supplement 2, 1982 as supplemented 1985, "Specification for Field Welded or Storage of Production Liquids," Ninth Edition;

- c. API 12F: Specification 12 F, and Supplement 1, 1982 as supplemented 1988, "Specification for Shop Welded Tanks for Storage of Production Liquids," Tenth Edition;
- d. API 620: Standard 620, 1990, "Design and Construction of Large, Welded, Low-Pressure Storage Tanks," Eighth Edition;
- e. API 650: Standard 650, 1988, "Welded Steel Tanks for Oil Storage," Eighth Edition;
- f. API 652: Recommended Practice 652, April 1991, "Lining of Aboveground Petroleum Storage Tank Bottoms," First Edition;
- g. API 2350: Recommended Practice 2350, March 1987, "Overfill Protection for Petroleum Storage Tanks";
3. National Fire Protection Association (NFPA Standards):
- a. NFPA 30, "Flammable and Combustible Liquids Code," 1993 edition;
- b. NFPA 30A, "Automotive and Marine Service Station Code," 1990 edition;
4. National Association of Corrosion Engineers Standards (NACE): Recommended Practice 0285-1995 (1995), "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems";
5. 40 CFR Part 112, "Oil Pollution Prevention," 1990 edition;
6. 29 CFR Part 1910.106, "Flammable and Combustible Liquids," 1985 edition;
7. Uniform Statewide Building Code (USBC), 1993 edition;
8. Virginia Statewide Fire Prevention Code (SWFPC), 1993 edition;
9. Building Officials & Code Administrators International, Inc. (BOCA):
- a. BOCA - National Building Code, 1993 edition;
- (1) Chapter 32 - Flammable and Combustible Liquids;
- (2) Chapter 23 - Hazardous Materials;
10. Steel Tank Institute (STI), Standards and Recommended Practices; and
- a. STI Standard for Diked Aboveground Storage Tanks F911-93;
- b. STI Standard for Aboveground Tanks with Integral Secondary Containment F921-93;
- c. STI Fireguard™ Thermally Insulated Aboveground Storage Tank Standard F941-94.
- B. The issue of the industry specification, standard, or code, including addenda or changes, described in this chapter as referenced publications, shall be used unless circumstances warrant the use of an earlier date and are specifically authorized by the board.

9 VAC 25-91-10 et seq.
APPENDIX I - Form A

APPLICATION FOR APPROVAL OF A FACILITY CONTINGENCY PLAN

Department of Environmental Quality
 Office of Spill Response and Remediation
 P.O. Box 10009
 Richmond, VA 23240-0009

State use only
 ID Number _____
 Date Received _____

Please type or print in ink all items except signature in certification section. This form must be completed for all aboveground oil storage facilities subject to the provisions of 9 VAC 25-91-20, B.

This facility has the maximum aboveground storage or handling capacity of _____ gallons.
 This facility is located in _____ County (or) _____ City.

Name and mailing address of operator _____

Name and location address of facility _____

Telephone number of operator _____

Telephone number of facility _____

Fax number of operator _____

Fax number of facility _____

Certification

I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate and complete. (To be signed by operator.)

Name of Operator _____ Signature _____ Date Signed _____

1. When the operator is an individual acting in his own right:
 The foregoing document was signed and acknowledged before me on this day of _____, 199____, by _____, by _____
 State of _____
 County/City of _____
 My Commission Expires: _____

2. When the operator is an individual acting on behalf of a corporation:
 The foregoing document was signed and acknowledged before me on this day of _____, 199____, by _____, who is,
 State of _____
 County/City of _____
 My Commission Expires: _____

3. When the operator is an individual acting on behalf of a municipality, state, federal or other public agency:
 The foregoing document was signed and acknowledged before me on this _____ day of _____, 199____, by _____, on behalf of said _____, _____
 State of _____
 County/City of _____
 My Commission Expires: _____

4. When the operator is an individual acting on behalf of a partnership:
 The foregoing document was signed and acknowledged before me this _____ day of _____, 199____, by _____, a _____ partnership.
 State of _____
 County/City of _____
 My Commission Expires: _____

(Name) _____ (Title) _____
 (Name of Corporation) _____ (State of Incorporation) _____
 (Name and Title) _____ (Municipality, State, Federal or other agency)

(Name of Partnership) _____
 (Name) _____

(Name of Partnership) _____
 (Name) _____

(Name of Partnership) _____
 (Name) _____



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DEQ Form 7540-AST: REGISTRATION FOR ABOVEGROUND STORAGE TANKS

Page: 3

V. REGISTRATION / NOTIFICATION TYPE: (Fill in all circles that apply)

- A. Initial Registration (New or existing AST/facility)
- B. Renewal Registration (Due to title transfer / 5 year reporting requirements)
- C. Amended Notification (Converted, upgraded, repaired, or replaced AST)
- D. Closure Notification (Temporary or permanent closure)
- E. Number of Aboveground Storage Tanks (ASTs at this facility): (example:0001)
- F. Number of Tank Information Sheets attached (ASTs only): (example:0001)
- G. Number of Underground Storage Tanks (USTs) at the facility: (example:0001)

- VI. OWNER TYPE: (Fill in one circle only)
- A. Local Government B. State Government C. Federal Government D. Commercial E. Private

VII. INDIAN LANDS: (Fill in all circles that apply)

- A. Tanks located on an Indian Reservation or on trust lands.
- B. Tanks owned by Native American nation, tribe or individual.
- C. Specify Native American tribe or nation (specify on page 9).

VIII. FACILITY TYPE: (Fill in all circles that apply)

- A. Gas Station/Convenience H. Railroad N. Trucking/Transport
- B. Petroleum Distributor I. Federal, Non-Military O. Utilities
- C. Air Taxi (Airline) J. Federal, Military P. Residential
- D. Aircraft Owner K. Commercial Q. Farm
- E. Auto Dealership L. Industrial R. Bulk Storage
- F. Local Government M. Contractor S. Other (Specify on page 9)
- G. State Government

IX. TOTAL STORAGE CAPACITY OF FACILITY: (Fill in all circles that apply)

- A. Individual AST with capacity greater than 660 gallons.
- B. Facility with total capacity greater than 1,120 gallons.
- C. Facility with total capacity greater than 25,000 gallons.
- D. Facility with total capacity greater than or equal to 1,000,000 gallons.
- E. Total storage capacity of facility in gallons:
- F. If facility is 25,000 gallons or greater, include Oil Discharge Contingency Plus facility identification number:

X. FACILITY SAFE FILL AND SHUTDOWN PROCEDURES: (Fill in all circles that apply)

- A. Method of monitoring transfer operations:
 - 1. Manual
 - 2. Automatic



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DEQ Form 7540-AST: REGISTRATION FOR ABOVEGROUND STORAGE TANKS

Page: 4

B. Type of spill containment system at oil transfer areas where vehicle filling connections are made:

- 1. Curbing
- 2. Drip Pan
- 3. Sorbent Materials
- 4. None
- 5. Other

C. Automatic shutdown system located at the tank vehicle loading neck:

- 1. Yes
- 2. No

D. Collarless barriers used to prevent pipe when vehicles are loading?

- 1. Yes
- 2. No

XI. FINANCIAL RESPONSIBILITY (Fill in all circles that apply)

A. I have met the financial responsibility requirements in accordance with Sec. 52.1-44, 34-16 of the Code of Virginia utilizing the following method(s): (NOTE: This section is not applicable until VR 680-14-1 becomes effective.)

- 1. Self-insurance
- 2. Surety Bond
- 3. Guaranty
- 4. Trust Fund
- 5. Va. Petroleum Storage Tank Fund (VPSTF)
- 6. Later of Credit
- 7. Risk Retention Group (Group Self-insurance Pool)
- 8. Not Applicable
- 9. Other

B. Amount of financial responsibility requirements: (example: 002000000; no commas)

C. Applicable registration fees must be submitted with any registration. Fees are explained below.

*NOTE: No fee is required for a "notification" for AST conversion, upgrade, repair, replacement, or closure.

- 1. One facility with one AST = \$25
- 2. One facility with two or more ASTs = \$50
- 3. Two facilities with one AST each = \$50
- 4. Two facilities with one AST at the first facility and two or more at the other = \$75
- 5. Two or more facilities with two or more ASTs each = \$100
- 6. Three facilities with one AST each = \$75
- 7. Three facilities with two or more ASTs at the first facility and one AST at each other facility = \$100

D. Application fee for "registration" is attached?

- 1. Yes
- 2. No

Make check or money order payable to: Commonwealth of Virginia, Department of Environmental Quality. (If registration fee not enclosed, explain on page 9.) Mailing Address: P.O. Box 11143, Richmond VA 23230-1143

TANK INFORMATION

(Complete all tank sheets for each tank at this location)

K. TANK CONTAINMENT AND/OR DIVERSIONARY STRUCTURES OR EQUIPMENT: (Fill in all circles that apply)

- 1. Curbing
- 2. Weirs and/or Booms
- 3. Sorbent Materials
- 4. Culverts and/or Chutes
- 5. Spill Diversion Pools
- 6. Retention Ponds
- 7. Dikes/Bermes/Retaining Walls
- 8. Unknown
- 9. Other (Specify on Page 9)

L. RELEASE PREVENTION BARRIERS:

- 1. Double Bottom
- 2. Double-walled
- 3. Lined Interior
- 4. Polyethylene Jacket
- 5. Excavation Liner
- 6. None
- 7. Unknown
- 8. Other (Specify on Page 9)

M. RELEASE DETECTION METHOD:

- 1. Groundwater Monitoring
- 2. Visual Monitoring
- 3. Vapor Monitoring
- 4. Interstitial Monitoring
- 5. None
- 6. Other (Specify on Page 9)

N. TANK SAFE FILL-AND SHUTDOWN PROCEDURES:

- 1. Does tank have a gauge measuring liquid level of tank?
 - a. Yes
 - b. No
- 2. Date gauge was last calibrated: (MMDDYY)

O. AST AND FACILITY INSPECTIONS:

(N/A = Not applicable; N/C = Not conducted; Unk = Unknown; Date = Date inspected)

Information Requested

- 1. Last cathodic protection evaluation for AST.
- 2. Last formal external tank inspection.
- 3. Last formal external tank re-inspection.
- 4. Last formal internal tank inspection.
- 5. Last formal internal tank re-inspection.

Information Requested	N/A	N/C	Unk	Date (MMDDYY)
1. Last cathodic protection evaluation for AST.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>
2. Last formal external tank inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>
3. Last formal external tank re-inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>
4. Last formal internal tank inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>
5. Last formal internal tank re-inspection.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text"/>

TANK INFORMATION

(Complete all tank sheets for each tank at this location)

XII. DESCRIPTION OF ABOVEGROUND TANKS: (Fill in all that apply)

<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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A. OWNER'S TANK IDENTIFICATION NUMBER:

(Examples: 000001; no commas)

B. TANK STATUS:

- 1. New Installation
- 2. Currently in Use
- 3. Upgrade
- 4. Repaired
- 5. Converted
- 6. Replacement
- 7. Change in Service
- 8. Temporarily Out of Use
- 9. Permanently Out of Use

C. INSTALLATION DATE (MMDDYY):

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

D. TOTAL STORAGE CAPACITY OF TANK (in gallons)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------	----------------------

E. TANK MATERIAL OF CONSTRUCTION:

- 1. Painted/Bare Single-walled Steel
- 2. Cathodically Protected Steel
- 3. Composite (Steel w/Fiberglass)
- 4. Fiberglass Reinforced Plastic
- 5. Insulated/Tank Jacket
- 6. Lined Interior
- 7. Double-Walled
- 8. Double Bottomed
- 9. Concrete
- 10. Excavation Liner
- 11. Epoxy Coated Steel (Internal)
- 12. Epoxy Coated Steel (External)
- 13. Unknown
- 14. Other (Specify on Page 9)

F. FOUNDATION CONSTRUCTION MATERIAL:

- 1. Earthen Material
- 2. Concrete with Impermeable Material
- 3. Steel
- 4. Concrete without Impermeable Material
- 5. Unknown
- 6. Other

G. ROOF CONSTRUCTION TYPE:

- 1. Fixing Roof
- 2. Bolted Steel Cone Roof
- 3. Breaker Roof
- 4. Double Deck Roof
- 5. Flat Roof
- 6. Balloon Roof
- 7. Lifter Roof
- 8. Fan Roof
- 9. Other (Specify on Page 9)

H. PIPING TYPE:

- 1. Below Ground Pipes
- 2. Above Ground Pipes
- 3. Bob

I. PIPING CONSTRUCTION MATERIAL:

- 1. Bare Steel
- 2. Galvanized Steel
- 3. Copper
- 4. Fiberglass Reinforced Plastic
- 5. Double-walled
- 6. Secondary Containment
- 7. Unknown
- 8. Other (Specify on Page 9)

J. TANK CATHODIC PROTECTION:

- 1. None
- 2. Sacrificial Anodes(s)
- 3. Impressed Current



TANK INFORMATION

(Complete all tank sheets for each tank at this location)

N/A	N/C	Unk	Date (MMDDYY)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- 6. Last hydrostatic testing for piping. N/A N/C Unk Date (MMDDYY)
- 7. Last corrosion protection for aboveground piping.
- 8. Last cathodic protection for underground piping.
- 9. Last berm or dike evaluation or certification by a professional engineer.
- 10. Has AST had any major repairs or alterations? If yes, specify on page 9. Yes No

P. SUBSTANCE CURRENTLY OR LAST STORED IN TANK:

- 1. Gasoline
- 2. Diesel Fuel
- 3. Gasohol
- 4. Heating Oil
- 5. Fuel Oil
- 6. Kerosene
- 7. Used Oil
- 8. Lubricating Oil
- 9. Bunker "C"
- 10. Jet Fuel
- 11. Aviation Gasoline
- 12. Other (Specify on Page 9)

Q. TEMPORARY OR PERMANENT TANK CLOSURES:

- 1. Type:
 - a. Temporary closure
 - b. Permanent closure
- 2. Date tank was last used (MMDDYY)
 - a. Unknown
 - b.
- 3. Date tank was last closed (MMDDYY)
 - a. Unknown
 - b.
- 4. Has a site assessment been completed?
 - a. Yes
 - b. No
- 5. Has a permit and required inspection been obtained?
 - a. Yes
 - b. No
- 6. If temporary closure, has an extension of the 12 month temporary period been requested?
 - a. Yes
 - b. No
 - c. Not Applicable

TANK INFORMATION

(Complete all tank sheets for each tank at this location)

- 7. Was tank dismantled? Yes No
- 8. Was piping dismantled? 7a 7b 7c 7d
- 9. Was tank closed in place? 8a 8b 8c 8d
- 10. Was piping closed in place? 9a 9b 9c 9d
- 11. Was closure approved by local building official/inspector? 10a 10b 10c 10d
- 12. Was evidence of leak detected? 11a 11b 11c 11d
- 13. Was closure assessment completed? 12a 12b 12c 12d
- 14. Was closure assessment completed? 13a 13b 13c 13d

Section "Q" is not complete without the following information attached:

- 1. Copies of laboratory results of sample(s) and test(s) for oil / petroleum hydrocarbons.
- 2. Description of area sampled.
- 3. Photographs indicating sampled area.
- 4. Site map indicating location of closed AST and associated piping.
- 5. Copy of local code permit.

XIII. COMPLIANCE CERTIFICATION: (Complete for all new and upgraded tanks at this location)

- A. OWNER'S TANK IDENTIFICATION NUMBER: (example: 000001; no commas)

B. Installer certified by tank and piping manufacturers?

- 1. Yes
- 2. No

C. Installation inspected by registered engineer?

- 1. Yes
- 2. No

D. Installation completed to which standard?

- 1. API 650
- 2. UL 142
- 3. API 620
- 4. Other (Specify on Page 9)

E. Manufacturer's installation checklist(s) have been completed?

- 1. Yes
- 2. No

F. "Certificate of Use" issued by local permitting official?

- 1. Yes
- 2. No



20208

STATE USE ONLY					FAC.ID	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Page: 9

DEQ Form 7540-AST: REGISTRATION FOR ABOVEGROUND STORAGE TANK(S)

TANK INFORMATION

XIII. (continued)
 (Complete all tank boxes for each tank at this location)
 G. OATB: I certify the information concerning installation that is provided in section XIII is true to the best of my belief and knowledge.

Installer Name: _____
 Company Name: _____
 Installer Position: _____
 Signature: _____ Date: _____

XIV. OWNER CERTIFICATION (Read and sign after completing all sections of this registration/notification.)
 I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.
 (To be signed by either the owner or the owner's authorized representative).

Name and official title of owner: _____
 Signature: _____ Date: _____
 Name and official title of owner's authorized representative: _____
 Signature: _____ Date: _____

USE THIS SPACE TO SPECIFY "OTHER" INFORMATION OF FORM: (Use additional sheets as needed)

VII. C. _____
 VIII. S. _____
 X. B. _____
 XI. D. _____
 XII. E. _____
 XII. F. _____
 XII. G. _____
 XII. I. _____
 XII. K. _____
 XII. L. _____
 XII. M. _____
 XII. O. _____
 XII. P. _____
 XIII. D. _____

ADDITIONAL COMMENTS: _____

Proposed Regulations

Title of Regulation: 9 VAC 25-100-10 et seq. Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval (REPEALING).

Title of Regulation: 9 VAC 25-101-10 et seq. Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation.

Statutory Authority: §§ 62.1-44.15 (10), 62.1-44.34:16 and 62.1-44.34:21 of the Code of Virginia.

Public Hearing Dates:

October 15, 1997 - 6 p.m. (Williamsburg)

October 16, 1997 - 6 p.m. (Roanoke)

October 24, 1997 - 6 p.m. (Prince William)

Public comments may be submitted until November 17, 1997.

(See Calendar of Events section for additional information)

Basis: Under the authority of § 62.1-44.34:15 of the Code of Virginia, certain tank vessel operators transporting or transferring oil upon state waters must have an approved oil discharge contingency plan. This applies to all tank vessels having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil. In addition, under the authority of § 62.1-44.34:16 of the Code of Virginia, all operators of these same tank vessels are required to deposit with the board cash or its equivalent in the amount of \$500 per gross ton of such vessels to ensure financial capability necessary to meet liabilities in the event of an oil spill. Section 62.1-44.34:16 B of the Code of Virginia further provides that the board shall exempt an operator of a tank vessel from the cash deposit requirements if the operator of the tank vessel provides evidence of financial responsibility pursuant to the terms and conditions of that subsection. Furthermore, § 62.1-44.34:21 of the Code of Virginia authorizes the board to collect fees for the approval of an oil discharge contingency plan and acceptance of evidence of financial responsibility sufficient to meet, but not exceed, the costs of the board related to implementation of § 62.1-44.34:15 and § 62.1-44.34:16 of the Code of Virginia.

Under authority of § 62.1-44.34:15 B of the Code of Virginia, the board is authorized to develop requirements and standards for approval of tank vessel contingency plans. Similarly, under authority of § 62.1-44.34:16 C of the Code of Virginia, the board is authorized to develop requirements for the demonstration of evidence of financial responsibility. There are two existing regulations that provide standards for operators to meet these statutory requirements for mitigating the effects of oil discharges from tank vessels: 9 VAC 25-90-10 et seq. (formerly VR 680-14-07), Oil Discharge Contingency Plans and Administrative Fees for Approval, and 9 VAC 25-100-10 et seq. (formerly VR 680-14-08), Tank Vessel Financial Responsibility Requirements and Administrative Fees for Approval.

Purpose: The purpose of this proposed regulation is to provide a single source for the requirements for tank vessels

transporting oil upon state waters and facilitate compliance by the regulated community. To accomplish this purpose, the portions of 9 VAC 25-90-10 et seq. relating to tank vessel contingency plans are proposed to merge with the tank vessel financial responsibility requirements of 9 VAC 25-100-10 et seq. This is being done in conjunction with the consolidation of the aboveground storage tank requirements which are currently in three separate chapters. The existing regulations will be repealed upon final adoption of the proposed regulation.

In addition to providing simplified requirements for tank vessel operators, the new regulation will continue to protect public health and safety by implementing measures to prevent and mitigate the effects of catastrophic oil spills. The public welfare and interests will be further met by the assurance that parties responsible for oil discharges from tank vessels will meet their liabilities for damages under § 62.1-44.34:18 C of the Code of Virginia.

Substance: Oil discharge contingency plans are required of tank vessel operators as a condition of transporting oil upon state waters. These plans are approved by the board to ensure operators can protect environmentally sensitive areas; respond to the threat of an oil discharge; and contain, clean up and mitigate a discharge within the shortest feasible time. Tank vessel operators must also provide evidence of financial responsibility to ensure that they are able to support the costs of clean up and meet the liabilities for damages specified under § 62.1-44.34:18 C of the Code of Virginia. The new regulation continues to provide for protection of the environment as well as protecting the public interest as required in §§ 62.1-44.34:15 and 62.1-44.34:16 of the Code of Virginia. The new regulation will consolidate existing requirements for tank vessel operators, provide regulatory relief by reduction of renewal fees, and specify provisions to accept federal approval and documentation as meeting state requirements. The new regulation will facilitate regulatory compliance and thereby provide continued protection of the environment and the public interest.

Issues: The primary issue concerning this regulation is consolidation of the existing requirements for operators of tank vessels transporting oil upon state waters to obtain approval of an oil discharge contingency plan and to demonstrate the financial capability to meet the statutory liabilities associated with oil discharges. The primary advantage of this consolidation is a more clear and understandable regulation with provisions to eliminate duplication of oil spill response planning and documentation. A single tank vessel regulation will facilitate compliance and provide additional assurance to the public for protection of the environment and economic interests.

Advantages to the public are assurances that tank vessels transporting many millions of gallons of oil annually upon state waters can effectively respond to an oil discharge, protect valuable resources, and clean up and mitigate the effects of a discharge. The public is also assured that tank vessel operators have the financial capability to effect the cleanup of a catastrophic oil discharge and meet the liabilities

of the state, municipalities, industries and private citizens. Continued response planning and demonstration of financial responsibility will assure a coordinated response action in the event of a catastrophic oil spill. The public has high expectations that there be an expeditious restoration of natural resources, valuable fisheries (including shellfish), and private property following an oil spill. State coastal areas dependent upon manufacturing, transportation, and the tourism industry need assurance of prompt recovery from the adverse economic effects of oil spills.

There are no discernible disadvantages to the public caused by adopting this regulation.

The advantages to the DEQ of the new regulation consolidating the existing regulations are: ability to (i) provide a single source of information to the regulated community, (ii) streamline processes for contingency plan and evidence of financial responsibility approvals, (iii) coordinate documentation more effectively with the United States Coast Guard, and (iv) actively support the "single-plan concept" for oil spill response planning.

There are no discernible disadvantages to the DEQ caused by adopting this regulation.

Estimated Impact: The proposed consolidated regulation will have little or no additional impact on tank vessel operators. There are approximately 350 tank vessel operators currently providing documentation of more than 1,300 tank vessels under the existing regulations. Since the requirements for submittal of tank vessel contingency plans and evidence of financial responsibility have been in effect since January 1992, there will be no additional costs to vessel operators due to adoption of this regulation. The new regulation will actually reduce costs to operators by providing for the acceptance of a federally approved Vessel Response Plan as meeting state contingency plan requirements. Similarly, the new regulation provides for acceptance of a federally approved Certificate of Financial Responsibility as also meeting state financial responsibility requirements.

Because the proposed regulation will increase efficiency and streamline the review processes by the DEQ, the new regulation proposes to eliminate fees for renewal of contingency plan approval and certification of financial responsibility.

No cities or counties are directly impacted by the existing regulations and will not be additionally impacted by the consolidated regulation.

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. The tank vessel regulations are intended to ensure that operators of tank vessels on state waters can protect environmentally sensitive areas; respond to the threat of an oil discharge; and contain, clean up and mitigate a discharge within the shortest feasible time. Tank vessel operators must also provide evidence of financial responsibility to ensure that they are able to support the costs of an oil spill clean-up and meet the liabilities for damages specified under state law. These proposed changes to the tank vessel regulations are designed to consolidate existing requirements from several different sections of the administrative code into one place, to reduce renewal fees, and to specify that federal approval and documentation meets state tank vessel requirements.

Estimated economic impact. The changes proposed here are primarily clarificatory. A set of regulatory requirements that previously were housed in two different sections of the code will be consolidated into one place. This consolidation does not change the substantive requirements of the regulation. There will be some modest benefit due to greater ease of use especially by those operators unfamiliar with the Virginia Administrative Code. Since many tank vessel operators are foreign, streamlined and clarified regulations could provide a substantial benefit to them. It is not clear whether this improvement will translate into any measurable increase in economic activity in Virginia. It does, however, tend to improve the business climate without relaxing the level of protection of natural resources.

Most tank vessels are also regulated by federal rules for contingency planning and financial assurance. Since the state and federal rules are substantially the same, this proposal will allow vessels with federal approval to automatically meet the state requirements covered by the federal rules. This eliminates a redundant layer of permitting and allows the DEQ to work closely with the United States Coast Guard in tracking tank vessels and enforcing the applicable rules.

The reduced processing costs for plan renewal will allow DEQ to eliminate the fee for renewal of previously approved plans. This reduction in processing costs constitutes an economic gain for Virginia.

Businesses and entities affected. DEQ reports that there are approximately 350 tank vessel operators with more than 1,300 vessels operating under the current regulations. These operators will be the principal beneficiaries of the change.

Localities particularly affected. Localities adjacent to state navigable waters would be the only ones affected. However, these changes will probably not have any material impact on these localities.

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Projected impact on employment. No noticeable impact on employment is likely to result from this change in regulations although, as noted, they could result in some small increase in economic activity related to tank vessels.

Effects on the use and value of private property. Owners of tank vessels should face somewhat lower compliance costs. This could have the effect of slightly increasing the profits from operating tank vessels which would make shares of ownership in this equipment more profitable. Assuming it occurs, the expected impact will be far too small to be measured.

Summary of analysis. Since many of these operators are foreign firms, much of the reduced compliance costs will not be a direct net gain to Virginia's economy. However, the improved business climate could have some impact on the willingness of tank vessel operators to use Virginia facilities. Insofar as these vessels are operated in a way that protects Virginia's natural resources from spilled oil, the increased activity may well constitute a net gain to Virginia.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: DEQ concurs with DPB's economic impact analysis of the proposed regulation 9 VAC 25-101-10 et seq., Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation.

Summary:

The proposed regulation will consolidate existing requirements for tank vessel operators, will reduce renewal fees, and specify provisions to accept federal approval of contingency plans and financial responsibility documentation as meeting state requirements. Concurrently with the adoption of the new regulation, the board is proposing the repeal of the existing regulations.

CHAPTER 101.

TANK VESSEL OIL DISCHARGE CONTINGENCY PLAN AND FINANCIAL RESPONSIBILITY REGULATION.

9 VAC 25-101-10. Definitions.

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

"Board" means the State Water Control Board.

"Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

"Department" means the Department of Environmental Quality.

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

"Net worth" means the amount of all assets of a tank vessel operator located in the United States, less all liabilities.

"Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum byproducts, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. For the purpose of this chapter only, this definition does not include nonpetroleum hydrocarbon-based animal and vegetable oils or petroleum, including crude oil or any fraction thereof which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of § 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC § 9601) and which is subject to the provisions of that Act.

"Operator" means any person who owns, operates, charters by demise, rents or otherwise exercises control over or responsibility for a facility or a vehicle or vessel.

"Person" means an individual, trust, firm, joint stock company, corporation including a government corporation, partnership, association, any state or agency thereof, municipality, county, town, commission, political subdivision of a state, any interstate body, consortium, joint venture, commercial entity, the government of the United States or any unit or agency thereof.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.

"Tank vessel" means any vessel used in the transportation of oil in bulk as cargo. For the purpose of this chapter, this definition includes tankers, tank ships, tank barges and combination carriers when carrying oil. It does not include vessels carrying oil in drums, barrels, portable tanks or other packages or vessels carrying oil as fuel or stores for that vessel.

"Vehicle" means any motor vehicle, rolling stock or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

"Vessel" includes every description of watercraft or other contrivance used as a means of transporting on water, whether self-propelled or otherwise, and shall include barges and tugs.

"Working capital" means the amount of current assets of a tank vessel operator located in the United States, less all current liabilities.

9 VAC 25-101-20. Applicability.

This chapter applies to all tank vessels transporting or transferring oil upon state waters having a maximum storage, handling or transporting capacity of equal to or greater than 15,000 gallons of oil.

9 VAC 25-101-30. Purpose.

The purpose of this chapter is to provide guidance for the development of tank vessel contingency plans and to establish requirements for financial responsibility on the part of operators of tank vessels transporting or transferring oil as cargo upon state waters. Contingency plans must address

concerns for the effect of oil discharges on the environment as well as considerations of public health and safety. The oil discharge contingency plans will ensure that the applicant can take such steps as are necessary to protect environmentally sensitive areas; to respond to the threat of an oil discharge; and to contain, clean up and mitigate an oil discharge within the shortest feasible time. This chapter provides acceptable means of demonstrating the required level of financial responsibility therefore providing the Commonwealth with the necessary assurance that an operator of a tank vessel has the necessary financial stability to conduct a proper response to a discharge of oil.

9 VAC 25-101-40. Oil discharge contingency plan review and approval.

A. Tank vessel oil discharge contingency plans shall provide for the use of the best available technology (economically feasible, proven effective and reliable and compatible with the safe operation of the vessel) at the time the plan is submitted for approval, be written in English, and, in order to be approvable, shall contain, at a minimum, the following requirements:

1. The vessel name, country of registry, identification number, date of build and certificated route of the vessel.
2. The names of the vessel operators including address and phone number.
3. If applicable, name of local agent, address and phone number.
4. A copy of the material safety data sheet (MSDS) or its equivalent for each oil, or groups of oil with similar characteristics, transported or transferred by the tank vessel. To be equivalent, the submission must contain the following:
 - a. Generic or chemical name of the oil;
 - b. Hazards involved in handling the oil; and
 - c. A list of firefighting procedures and extinguishing agents effective with fires involving each oil or groups of oil demonstrating similar hazardous properties which require the same firefighting procedures.
5. A complete listing, including 24-hour phone numbers, of all federal, state and local agencies required to be notified in event of a discharge.
6. The position title of the individuals responsible for making the required notifications and a copy of the notification check-off list. This individual must be fluent in English.
7. The position title, address and phone number of the individuals authorized to act on behalf of the operator to implement containment and cleanup actions. This individual must be fluent in English and shall be available on a 24-hour basis to ensure the appropriate containment and cleanup actions are initiated.

8. The position title of the individuals designated by the operator to ensure compliance during containment and cleanup of a discharge, with applicable federal, state and local requirements for disposal of both solid and liquid wastes.

9. A copy of the valid evidence of financial responsibility approved by the board pursuant to 9 VAC 25-101-50.

10. A complete description of the vessel including vessel drawings providing a complete view of the location of all cargo tanks as well as the location of fuels and other oils carried in bulk by the vessel.

11. A complete description of each oil transfer system on the vessel, including:

- a. A line diagram of the vessel's oil transfer piping, including the location of each valve, pump, control device, vent, safety device and overflow;
- b. The location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system; and,
- c. The maximum pressure for each oil transfer system.

12. Identification and ensurance by contract, or other means acceptable to the board, of the availability of private personnel and equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge. This contract or agreement shall ensure a certain response within the shortest feasible time. The department will accept a letter of understanding between the operator and response contractors which attests to this capability being readily available. Membership in a cleanup cooperative or other response organization is also acceptable. A listing of contractor or cooperative capabilities, including an inventory of the equipment and specification of the other information required by subdivision 14 of this subsection shall be included unless these capabilities are already on file with the department.

13. Assessment of the worst case discharge, including measures to limit the outflow of oil, response strategy and operational plan. For the purpose of this chapter, the worst case discharge for a tank vessel is a discharge in adverse weather conditions of its entire cargo.

14. Inventory of onboard containment equipment, including specification of quantity, type, location, time limits for gaining access to the equipment, and, if applicable, identification of tank vessel personnel trained in its use.

15. If applicable, a copy of the United States Coast Guard approved oil transfer procedures and International Oil Pollution Prevention Certificate (IOPP).

16. A description of training, equipment testing, and periodic unannounced oil discharge drills conducted by

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the operator to mitigate or prevent the discharge, or the substantial threat of a discharge.

17. The tank vessel's cargo inventory control procedures. Tank vessel operators shall ensure that this control procedure is capable of providing for the detection of a discharge of oil within the shortest feasible time in accordance with recognized engineering practices and industry measurement standards.

18. A post discharge review procedure to assess the discharge response in its entirety.

B. All nonexempt tank vessel operators shall file with the department the appropriate application form available from the department for approval of the contingency plan. This form shall be submitted with the required contingency plan and shall be completed as far as it pertains to the tank vessel. The operator must sign and date the certification statement on the application form. If the operator is a corporation, the form must be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the form must be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the form must be signed by a general partner or the sole proprietor. All forms must be acknowledged before a Notary Public.

C. Contingency plans must be filed with and approved by the board. A signed original shall be submitted to the department at the address specified in subsection F of this section. A copy of the original with the tank vessel specific information and the approval letter shall be retained on the tank vessel and shall be readily available for inspection. An operator of a tank vessel whose normal operating route does not include entry into state waters shall certify to the board, within 24 hours of entering state waters, that the operator has ensured by contract or other means acceptable to the board, the availability of personnel and equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent the discharge or the substantial threat of a discharge. The operator shall submit a contingency plan to the board for approval in accordance with this chapter prior to the next entry of the tank vessel into state waters.

D. An operator of multiple tank vessels may submit a single fleet contingency plan. The plan shall contain vessel specific information required by this section for each vessel. The vessel specific information shall be included in appendices to the plan. This plan shall be separate from any required facility contingency plan.

E. Oil discharge contingency plans shall be reviewed, updated if necessary, and resubmitted to the board for approval every 60 months unless significant changes occur sooner. Operators must notify the department of significant changes and make appropriate amendments to the contingency plan within 30 days of the occurrence. For the purpose of this chapter, a significant change includes the following:

1. A change of operator of the tank vessel;
2. A substantial increase in the maximum storage or handling capacity of the tank vessel;
3. A decrease in the availability of private personnel or equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge;
4. A change in the type of product transported or transferred in or by any tank vessel covered by the plan for which a MSDS or its equivalent has not been submitted; or
5. The addition of a tank vessel to a single fleet contingency plan provided this requirement can be met by submittal of a new or amended appendix to the plan.

F. Updated plans shall be submitted to the board for review and approval not less than 90 days prior to expiration of the current plan. All applications and written communications concerning changes, submissions and updates of plans required by this chapter, with the exception of fees addressed in subsection K of this section, shall be addressed as follows:

Mailing Address:

Virginia Department of Environmental Quality
Office of Spill Response and Remediation
P.O. Box 10009
Richmond, VA 23240

Location Address:

Virginia Department of Environmental Quality
Office of Spill Response and Remediation
629 East Main Street
Richmond, VA 23219

G. An oil discharge exercise may be required by the board to demonstrate the tank vessel's ability to implement the contingency plan. The department will consult with the operator of the vessel prior to initiating an exercise. Where appropriate, the department will ensure coordination with federal agencies prior to initiation of an exercise.

H. The board may, after notice and opportunity for a conference pursuant to § 9-6.14:11 of the Code of Virginia, deny or modify its approval of an oil discharge contingency plan if it determines that:

1. The plan as submitted fails to provide sufficient information for the department to process, review and evaluate the plan or fails to ensure the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of a discharge, and to contain and cleanup an oil discharge within the shortest feasible time;
2. A significant change has occurred in the operation of the tank vessel covered by the plan;

3. The tank vessel's discharge experience or its inability to implement its plan in an oil spill discharge exercise demonstrates a necessity for modification; or

4. There has been a significant change in the best available technology since the plan was approved.

I. The board, after notice and opportunity for hearing, may revoke its approval of an oil discharge contingency plan if it determines that:

1. Approval was obtained by fraud or misrepresentation;
2. The plan cannot be implemented as approved;
3. A term or condition of approval or of this chapter has been violated; or
4. The tank vessel is no longer in operation.

J. Where an operator of a tank vessel has applied for and received from the United States Coast Guard an approval of a Vessel Response Plan (VRP), pursuant to § 4202 of the federal Oil Pollution Act of 1990, Pub. L. No. 101-380, 33 USCS § 2716 (1996), and its implementing regulations found in 33 CFR Part 155, such VRP shall be sufficient to meet the requirements of § 62.1-44.34:15 of the Code of Virginia and this section while the VRP approval is valid. The operator shall submit to the department a letter listing the vessel or vessels for which the approval is sought and a copy of the currently valid VRP approval letter for each tank vessel. Each time VRP approval is renewed or reissued, for any reason, for a tank vessel subject to this chapter, the operator shall submit a copy of such renewed or reissued VRP approval letter to the department.

K. An application for approval of an oil discharge contingency plan will be accepted only when the fee established by this section has been paid.

1. Fees shall be paid by operators of tank vessels subject to this chapter upon initial submittal of an oil discharge contingency plan. Renewals, additions, deletions or changes to the plan are not subject to the administrative fee. Operators of tank vessels subject to this chapter but meeting the provisions of subsection J of this section shall not be subject to administrative fees for the approval of an oil discharge contingency plan.

2. Fees shall be paid in United States currency by check, draft or postal money order made payable to the Treasurer, Commonwealth of Virginia and shall be sent to:

Mailing Address:

Virginia Department of Environmental Quality
Office of Financial Management
P.O. Box 10150
Richmond, VA 23240

Location Address:

Virginia Department of Environmental Quality
Office of Financial Management

629 East Main Street
Richmond, VA 23219

3. Application fees for approval of tank vessel contingency plans are as follows:

a. For a tank vessel with a maximum storage, handling or transporting capacity of 15,000 gallons and up to and including 250,000 gallons of oil the fee is \$718;

b. For a tank vessel with a maximum storage, handling or transporting capacity between 250,000 gallons and up to and including 1,000,000 gallons of oil the fee is \$2,155; and

c. For a tank vessel with a maximum storage, handling or transporting capacity greater than one million gallons of oil the fee is \$3,353.

4. The fee for approval of contingency plans encompassing more than one tank vessel, as authorized by subsection E of this section, shall be based on the aggregate capacity of the tank vessels.

5. Application fees are refundable upon receipt of a written request no later than 30 days after submittal and prior to approval.

6. Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicant's future use under this section.

9 VAC 25-101-50. Financial responsibility requirements.

A. The operator of any tank vessel entering upon state waters shall deposit with the board cash or its equivalent in the amount of \$500 per gross ton of such vessel. If the operator owns or operates more than one tank vessel, evidence of financial responsibility need be established only to meet the maximum liability applicable to the vessel having the greatest maximum liability.

1. All documents submitted shall be in English and all monetary terms shall be in United States currency.

2. A copy of the board's acceptance of the required evidence of financial responsibility shall be kept on the tank vessel and readily available for inspection.

B. If the board determines that oil has been discharged in violation of applicable state law or there is a substantial threat of such discharge from a vessel for which a cash deposit has been made, any amount held in escrow may be used to pay any fines, penalties or damages imposed under such law.

C. Federal government entities whose debts and liabilities are debts and liabilities of the United States have the requisite financial strength and stability to fulfill their financial assurance requirements and are relieved of the requirements to further demonstrate an ability to provide financial responsibility under this chapter.

D. Operators of tank vessels may obtain exemption from the cash deposit requirement if evidence of financial

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responsibility is provided in an amount equal to the cash deposit required for such tank vessel pursuant to § 62.1-44.34:16 of the Code of Virginia and subsection A of this section. The following means of providing such evidence, or any combination thereof, will be acceptable:

1. *Self-insurance.* Any operator demonstrating financial responsibility by self-insurance shall provide evidence of such self-insurance in a manner that is satisfactory to the board. An operator demonstrating self-insurance shall:

a. *Maintain, in the United States, working capital and net worth each in the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section.*

(1) *Maintenance of the required working capital and net worth shall be demonstrated by submitting with the application form an annual, current nonconsolidated balance sheet and an annual, current nonconsolidated statement of income and surplus certified by an independent certified public accountant. Those financial statements shall be for the operator's last fiscal year preceding the date of application and shall be accompanied by an additional statement from the operator's treasurer (or equivalent official) certifying to both the amount of current assets and the amount of total assets included in the accompanying balance sheet which are located in the United States and are acceptable for purposes of this chapter.*

(2) *If the balance sheet and statement of income and surplus cannot be submitted in nonconsolidated form, consolidated statements may be submitted if accompanied by an additional statement by the involved certified public accountant certifying to the amount by which the operator's assets, located in the United States and acceptable under this subsection D, exceed total liabilities and that current assets, located in the United States and acceptable under this subsection D, exceed its current liabilities.*

(3) *When the operator's demonstrated net worth is not at least 10 times the required amount, an affidavit shall be filed by the operator's treasurer (or equivalent official) covering the first six months of the operator's fiscal year. Such affidavits shall state that neither the working capital nor the net worth have fallen below the required amounts during the first six months.*

(4) *Additional financial information shall be submitted upon request by the department; or*

b. *Provide evidence in the form of a marine insurance broker's certificate of insurance, certificate of entry, or other proof satisfactory to the board that the operator has obtained oil pollution liability coverage through an operator's membership in a Protection & Indemnity (P&I) Club that is a member of the international group of P&I clubs or through coverage provided by a pool of*

marine underwriters in an amount sufficient to meet the requirements of § 62.1-44.34:16 of the Code of Virginia and subsection A of this section.

2. *Insurance.* Any operator demonstrating evidence of financial responsibility by insurance shall provide evidence of insurance issued by an insurer licensed, approved, or otherwise authorized to do business in the Commonwealth of Virginia. The amount of insurance shall be sufficient to cover the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section. The operator shall provide evidence of such coverage in the form of a marine insurance broker's certificate of insurance or by utilizing a form worded identically to the insurance form available from the department. The insurer must also comply with all requirements in the form available from the department.

3. *Surety.* Any operator demonstrating financial responsibility through a surety bond shall file a surety bond utilizing a form worded identically to the surety form available from the department. The surety company issuing the bond must be licensed to operate as a surety in the Commonwealth of Virginia and must possess an underwriting limitation at least equal to the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section. The surety must also comply with all requirements in forms available from the department.

4. *Guaranty.* An operator demonstrating financial responsibility through a guaranty shall submit the guaranty worded identically to the form available from the department. The guarantor shall comply with all provisions of subdivision D 1 of this section for self-insurance and also comply with all requirements in the surety document available from the department.

E. *To obtain exemption from the cash deposit requirements:*

1. *The operator shall appoint an agent for service of process in the Commonwealth;*

2. *The insurer, guarantor, or surety shall appoint an agent for service of process in the Commonwealth;*

3. *Any insurer must be authorized by the Commonwealth of Virginia to engage in the insurance business; and*

4. *Any instrument of insurance, guaranty or surety must provide that actions may be brought on such instrument of insurance, guaranty or surety directly against the insurer, guarantor or surety for any violation by the operator of Article 11 (§ 62.1-33.34:14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia up to, but not exceeding, the amount insured, guaranteed or otherwise pledged.*

5. *All forms of evidence of financial responsibility shall be accompanied by an endorsement that certifies that the insurance policy, evidence of self-insurance, surety*

or guaranty provides liability coverage for the tank vessels in the amount required by § 62.1-44.34:16 of the Code of Virginia and subsection A of this section.

6. Subdivisions E 2, E 3 and E 4 of this section do not apply to operators providing evidence of financial responsibility in accordance with subdivision D 1 of this section.

F. Any operator whose financial responsibility is accepted under this chapter shall notify the board at least 30 days before the effective date of a change, expiration or cancellation of any instrument of insurance, guaranty or surety.

G. Acceptance of evidence of financial responsibility shall expire:

1. One year from the date that the board exempts an operator from the cash deposit requirement based on acceptance of evidence of self-insurance;
2. On the effective date of any change in the operator's instrument of insurance, guaranty or surety; or
3. Upon the expiration or cancellation of any instrument of insurance, guaranty or surety.

H. All nonexempt tank vessel operators shall file with the board the application form available from the department for approval of the evidence of financial responsibility. This form shall be submitted with the required evidence of financial responsibility (cash deposit, proof of insurance, self-insurance, guaranty or surety) and shall be completed as far as it pertains to the tank vessel. The operator must sign and date the certification statement on the application form. All forms must be acknowledged before a Notary Public. If the operator is a corporation, the form must be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the form must be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the form must be signed by a general partner or the sole proprietor.

I. Application for renewal of acceptance of proof of financial responsibility shall be filed with the board 30 days prior to the date of expiration.

J. All applications and written communications concerning changes, submissions and updates required by this chapter, with the exception of fees as addressed in subsection M of this section, shall be addressed as follows:

Mailing Address:

Virginia Department of Environmental Quality
Office of Spill Response and Remediation
P.O. Box 10009
Richmond, VA 23240

Location Address:

Virginia Department of Environmental Quality
Office of Spill Response and Remediation
629 East Main Street
Richmond, VA 23219

K. The board, after notice and opportunity for hearing, may revoke its acceptance of evidence of financial responsibility if it determines that:

1. Acceptance has been procured by fraud or misrepresentation; or
2. A change in circumstances has occurred that would warrant denial of acceptance of evidence of financial responsibility.

L. Where an operator of a tank vessel has applied for and received from the United States Coast Guard a Certificate of Financial Responsibility (COFR), pursuant to § 1016 of the federal Oil Pollution Act of 1990, Pub. L. No. 101-380, 33 USCS § 2716 (1996), and its implementing regulations found at 33 CFR Part 138, such COFR shall be sufficient to meet the requirements of § 62.1-44.34:16 of the Code of Virginia, and this section while such COFR is valid. The operator shall submit to the department a letter listing the vessel or vessels for which the approval is sought and a copy of the currently valid COFR for each tank vessel. If an operator has received a Master COFR or a Fleet COFR from the United States Coast Guard, the operator shall submit a listing, including any changes to such listing, of the vessels to which the Master COFR or Fleet COFR applies which are subject to this chapter. Each time a COFR is renewed or reissued for any reason for a tank vessel subject to this chapter, the operator shall submit a copy of such renewed or reissued COFR to the department.

M. An application for approval of the demonstration of financial responsibility will be accepted only when the fees established by this section have been paid.

1. Fees shall only be paid upon initial submittal of the demonstration of financial responsibility by an operator. Renewals or changes are not subject to the administrative fee. Operators of tank vessels subject to this chapter but meeting the provisions of subsection L of this section shall not be subject to administrative fees for the approval of the demonstration of financial responsibility.
2. Fees shall be paid in United States currency by check, draft or postal money order made payable to Treasurer, Commonwealth of Virginia and shall be sent to:

Mailing Address:

Virginia Department of Environmental Quality
Office of Financial Management
P.O. Box 10150
Richmond, VA 23240

Location Address:

Virginia Department of Environmental Quality
Office of Financial Management
629 East Main Street
Richmond, VA 23219

Proposed Regulations

3. *Application fees for approval of evidence of financial responsibility for tank vessels are as follows:*

- a. *Applicants shall pay an application fee of \$120.*
- b. *Applicants shall pay a fee of \$30 for each additional tank vessel requiring a copy of the accepted evidence of financial responsibility.*

4. *Application fees are refundable upon receipt of a written request received by the department no later than 30 days after submittal and prior to approval.*

5. *Overpayments of application fees are refundable upon written request. Overpayments not refunded will be credited for the applicant's future use under this section.*

9 VAC 25-101-60. Delegation of authority.

The executive director, or his designee, may perform any act of the board under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

9 VAC 25-101-70. Evaluation of the chapter.

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

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

9 V.A.C. 25-101-10 et seq.

1. When the operator is an individual acting in his own right:

The foregoing document was signed and acknowledged before me on this day of _____, 199____, by _____ (Name)
 County/City of _____
 State of _____

Notary Public
 My Commission Expires: _____

2. When the operator is an individual acting on behalf of a corporation:

The foregoing document was signed and acknowledged before me on this day of _____, 199____, by _____ who is _____ (Title)
 of _____, a _____ (State of Incorporation)
 corporation, on behalf of the corporation.
 Notary Public
 My Commission Expires: _____

3. When the operator is an individual acting on behalf of a municipality, state, federal or other public agency:

The foregoing document was signed and acknowledged before me on this day of _____, 199____, by _____, on behalf of _____ said
 County/City of _____
 (Municipality, State, Federal or other agency)

Notary Public
 My Commission Expires: _____

4. When the operator is an individual acting on behalf of a partnership:

The foregoing document was signed and acknowledged before me this _____ day of _____, 199____, by _____ a _____ (Name)
 _____, a partnership.
 State of _____
 County/City of _____

Notary Public
 My Commission Expires: _____

9 V.A.C. 25-101-10 et seq.

APPENDIX I-A
 APPLICATION FOR APPROVAL OF A TANK VESSEL CONTINGENCY PLAN

Department of Environmental Quality-OSRR

P. O. Box 10009
 Richmond, VA 23240-0009 USA
 (Location: 629 East Main Street
 Richmond, VA 23219)

ID Number _____ State use only
 Date Received _____
 First Application _____
 Renewal _____

Please type or print all items (except signature in certification section). This form must be completed for each tank vessel transferring or transporting oil upon Virginia waters subject to regulation 9 V.A.C. 25-101-10 et seq. If multiple tank vessels are to be included in this application, list the tank vessel name, flag, date of build and cargo capacity of each additional tank vessel on Appendix I-A-1 and attach as a continuation page. The tank vessel operator shall be the same as listed on the application for U.S. Coast Guard Vessel Response Plan approval if the operator is using this documentation to meet Virginia requirements.

Please check one: Is this the first application for plan approval? _____ or a renewal? _____

Tank Vessel Name _____	Flag _____	Date of Build _____	Cargo Capacity (US gallons) _____
Name and mailing address of tank vessel operator _____	Name of agent or person authorized for spill response (Qualified individual) _____	_____	_____
Telephone number of tank vessel operator _____	Telephone number of Q/agent _____	_____	_____
Fax number of tank vessel operator _____	Fax number of Q/ agent _____	_____	_____

Certification
I certify that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. (To be signed by the tank vessel operator.)

Printed name of tank vessel operator _____ Signature of authorized person _____ Date signed _____

9 VAC 25-101-10 et seq.

APPENDIX II B
INSURANCE FORM FURNISHED AS EVIDENCE OF
FINANCIAL RESPONSIBILITY IN RESPECT OF LIABILITY FOR
DISCHARGE OF OIL UNDER § 62.1-44.3-16 OF THE CODE OF VIRGINIA
AND SUBSECTION 9 VAC 25-101-60, A.

9 VAC 25-101-10 et seq.

(Name of Insurer)

Hereinafter "insurer" hereby certifies that it is authorized to engage in the insurance business by the Commonwealth of Virginia and that for purposes of complying with the provisions of § 62.1-44.3-16 of the Code of Virginia and subsection 9 VAC 25-101-60, A. of the Department of Environmental Quality's Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation, each of the tank vessel operators specified in the schedules below is insured by it, in respect to each of the tank vessels respectively specified therein, against liability to the Commonwealth of Virginia to which such tank vessel operators could be subjected under Article 11 (§ 62.1-44.3-14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia. The amount of liability insured herein is:

- 1. In the case of a tank vessel, \$500.00 per gross ton of such tank vessel.

The foregoing amount of insurance coverage provided by the Insurer on behalf of the Commonwealth of Virginia in respect to any tank vessel specified herein is not conditioned or dependent in any way upon any agreement or understanding between an assured operator and the Insurer that any such tank vessel will or will not carry oil, or will or will not operate in certain waters.

(Name of Agent)

with offices located at _____ is hereby designated as the Insurer's agent in the Commonwealth of Virginia for service of process for the purpose of Article 11 (§ 62.1-44.3-14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and implementing rules in 9 VAC 25-101-10 et seq. If the designated agent cannot be served due to his death, disability, or unavailability, the Clerk of the State Corporation Commission becomes the agent for service of process.

The Insurer consents to be sued directly in respect of any claim against any of the operators arising under Article 11 (§ 62.1-44.3-14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and implementing rules in 9 VAC 25-101-10 et seq., provided, however, that in any such direct action its liability per tank vessel in any one incident shall not exceed \$500,000 per gross ton of such tank vessel. The Insurer shall be entitled to invoke only the rights and defenses permitted by § 62.1-44.3-18 of the Code of Virginia to the tank vessel operator.

The insurance evidenced by this undertaking shall be applicable only in relation to incidents occurring on or after the effective date and before the termination date of this undertaking, and shall be applicable only to incidents giving rise to claims under Article 11 (§ 62.1-44.3-14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia in respect to any of the below listed tank vessels.

The effective date of this undertaking shall, for each tank vessel listed below, be the date the tank vessel is named in or added to the schedules below. For each tank vessel, the termination date of this undertaking shall be 30 days after the date of receipt of written notice by the Department of Environmental Quality that the Insurer has elected to terminate the insurance evidenced by this undertaking, and has so notified the operator.

However, for any tank vessel that is carrying oil in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not take effect until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the Department of Environmental Quality of written notice that the Insurer has elected to terminate the insurance evidenced by this undertaking, whichever date is earlier.

Termination of this undertaking as to any tank vessel shall not affect the liability of the Insurer in connection with an incident occurring prior to the date such termination becomes effective.

If during the currency of this undertaking a below-named operator requests that an additional tank vessel be made subject to this undertaking and if the Insurer should accede to the request and should so notify the Department of Environmental Quality, then the tank vessel shall be included in the schedules below.

If more than one insurer joins in executing this document, that action constitutes joint and several liability on the part of the insurers.

The definitions in 9 VAC 25-101-10 et seq. shall apply to this undertaking.

I hereby certify that the wording of this instrument is identical to the wording in Appendix II B of 9 VAC 25-101-10 et seq.

Effective date of coverage for tank vessels named on this undertaking: _____

_____ day/month/year

(Name of Insurer)

(Mailing Address)

(Signature of Official Signing on Behalf of Insurer)

(Typed Name and Title of Signer)

9 VAC 25-101-10 et seq.

APPENDIX II C
SURETY BOND FORM FURNISHED AS EVIDENCE OF
FINANCIAL RESPONSIBILITY IN RESPECT OF LIABILITY FOR
DISCHARGE OF OIL UNDER § 62.1-44.34:16 OF THE CODE OF VIRGINIA
AND SUBSECTION 9 VAC 25-101-60. A

KNOW ALL PERSONS BY THESE PRESENTS, that We

of _____ (name of vessel operator)
 _____ as
 _____ (City) _____ (State and Country)

Principal (hereinafter called Principal), and _____

(Name of Surety) _____, a company created and existing

under the laws of _____ (State and Country)

and authorized to do business in the Commonwealth of Virginia, as surety (hereinafter called Surety) are held and firmly bound unto the Commonwealth of Virginia for liability under Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, in the penal sum of \$ _____

(\$500.00 per gross ton)

for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. The foregoing penal sum is not conditioned or dependent in any way upon any agreement or understanding between the Principal and Surety that any tank vessel(s) will or will not carry oil or will or will not operate in certain waters.

WHEREAS, the Principal intends to become or is a holder of an approval of evidence of financial responsibility under the provisions of § 62.1-44.34:16 of the Code of Virginia and subsection 9 VAC 25-101-60. A, of the Department of Environmental Quality's Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation, and has elected to file with the Department of Environmental Quality such a bond as will insure financial responsibility to meet any liability to which such tank vessel operator could be subjected under Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, and

WHEREAS, this bond is written to ensure compliance by the Principal with the requirements of said Article 11 and subsection 9 VAC 25-101-60.A, and shall inure to the benefit of claimants under § 62.1-44.34:18 of the State Water Control Law;

NOW, THEREFORE, the condition of this obligation is that if the Principal shall pay or cause to be paid to claimants any sum or sums for which the Principal may be held legally liable under said Article 11, then this obligation, to the extent of such payment, shall be void, otherwise to remain in full force and effect.

9 VAC 25-101-10 et seq.

SCHEDULE OF TANK VESSELS AND ASSURED OPERATORS

Tank Vessel Name	Gross Tons	Assured Operator

SCHEDULE OF TANK VESSELS AND ASSURED OPERATORS
ADDED TO ABOVE SCHEDULE

Tank Vessel Name	Gross Tons	Assured Operator	Date Added

Proposed Regulations

9 VAC 25-101-10 et seq.

In witness whereof, the above-named Principal and Surety have executed this instrument on the _____ day of _____, 19____.

(Please type name of signer under each signature. In the case of partnership, each partner must sign.)

PRINCIPAL

Individual Principal or Partner _____ Business Address _____

Individual Principal or Partner _____ Business Address _____

Individual Principal or Partner _____ Business Address _____

Corporate Principal _____

Business Address _____

(Affix Corporate Seal)

By _____

Title _____

SURETY

Corporate Surety _____

Business Address _____

By _____ (Affix Corporate Seal)

Title _____

Surety's Bond Number: _____

9 VAC 25-101-10 et seq.

The liability of the Surety shall not be discharged by any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond. In no event shall the Surety's obligation hereunder exceed the amount of the penalty, provided that the Surety furnishes written notice to the Department of Environmental Quality forthwith of all suits filed, judgments rendered, and payments made by the Surety under this bond.

Any claim for which the Principal may be liable under said Article 11 may be brought directly against the Surety; provided, however, that in the event of a direct claim the Surety shall be entitled to invoke only the rights and defenses permitted by § 62.1-44.34:18 of the Code of Virginia to the Principal (tank vessel operator).

This bond is effective the _____ day of _____, 19____, 1201 a.m. Standard time at the address of the Surety as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or Surety may at any time terminate this bond by written notice sent by certified mail to the other party with a copy (plainly indicating that the original was sent by certified mail) to the Department of Environmental Quality, Office of Spill Response and Remediation, P.O. Box 10009, Richmond, Va. 23240-0009. The termination becomes effective thirty (30) days after actual receipt by the Department of Environmental Quality of written notice; provided, however, that with respect to any of the Principal's tank vessels carrying oil in bulk as cargo that has been loaded before the time of termination would otherwise have become effective, the termination shall not take effect (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the Department of Environmental Quality of written notice of termination of the bond by the above named Principal or Surety under the conditions set forth above, whichever date is earlier. The Surety shall not be liable hereunder in connection with an incident occurring after the termination of this bond as herein provided, but termination shall not affect the liability of the Surety in connection with an incident occurring before the date the termination becomes effective.

The Surety hereby waives notification of amendments to applicable laws, statutes, rules and regulations and agrees that no such amendment shall in any way alleviate its obligation on this bond.

The Surety designates _____ (Name of Agent)

with offices at _____ as the Insurer's agent in the Commonwealth of Virginia for service of process for the purpose of Article 11 and 9 VAC 25-101-10 et seq. If the designated agent cannot be served due to his/her death, disability, or unavailability, the Clerk of the State Corporation Commission becomes the agent for service of process.

If more than one surety company joins in execution of this bond, that action constitutes joint and several liability on the part of the sureties.

The definitions in 9 VAC 25-101-10 shall apply to this bond.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety, that this bond meets the requirements of 9 VAC 25-101-10 et seq. and that the wording of this surety bond is identical to the wording specified in Appendix 11 C of 9 VAC 25-101-10 et seq.

9 VAC 25-101-10 et seq.
and if the Guarantor accedes to the request and so notifies the Department of Environmental Quality in writing, then the tank vessel becomes one of the Tank Vessels included in Schedule B and subject to this Guaranty.

5. The Guarantor certifies that it meets or exceeds the financial test criteria for self insurance of subsection 9 VAC 25-101-60. D., and agrees to comply with all the requirements for Guarantors as specified in 9 VAC 25-101-10 et seq. Guarantor agrees that if, at the end of any fiscal year before cancellation of this Guarante, the Guarantor fails to meet the financial test criteria of subsection 9 VAC 25-101-60. D., Guarantor shall send within 30 days of such failure, by certified mail, notice to the operator. The Guarantee will terminate 30 days from the date of receipt of the notice by the operator, as evidenced by the return receipt.

6. The Guarantor hereby designates _____ (Name of Agent) with offices at _____ as the Guarantor's agent in the Commonwealth of Virginia for service of process for the purpose of Article 11 and implementing rules in 9 VAC 25-101-10 et seq. If the designated agent cannot be served due to his/her death, disability, or unavailability, the Clerk of the State Corporation Commission becomes the agent for service of process.

7. If more than one guarantor joins in executing this Guaranty, that action constitutes joint and several liability on the part of the Guarantors.

8. The definitions in section 9 VAC 25-101-10 shall apply to this Guaranty.

I hereby certify that the wording of this Guaranty is identical to the wording specified in Appendix II D of 9 VAC 25-101-10 et seq.

EFFECTIVE DATE _____ (Month/Day/Year and Place of Execution)
(Type Name of Guarantor)
(Type Address of Guarantor)
By: _____ (Signature)
(Type Name and Title of Person Signing)

9 VAC 25-101-10 et seq.

APPENDIX II D
GUARANTY FORM FURNISHED AS EVIDENCE OF
FINANCIAL RESPONSIBILITY IN RESPECT OF LIABILITY FOR
DISCHARGE OF OIL UNDER § 62.1-44.3-16 OF THE CODE OF VIRGINIA
AND SUBSECTION 9 VAC 25-101-60. A.

I. WHEREAS _____ (Name of Vessel Operator) (hereinafter the "Operator") is the Operator of the tank vessel(s) specified in the annexed schedules (hereinafter "Tank Vessels"), and whereas the Operator desires to establish its financial responsibility in accordance with § 62.1-44.3-16 of the Code of Virginia and subsection 9 VAC 25-101-60. A. of the Department of Environmental Quality, 3 Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation, the undersigned Guarantor hereby guarantees, subject to the provisions of clause 3 hereof, to discharge the Operator's legal liability to the Commonwealth of Virginia in respect to a claim under Article 11 (§ 62.1-44.3-14 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia. Upon payment of the agreed sum, the Operator is to be fully, irrevocably, and unconditionally discharged from all further liability to the claimant with respect to the claim. The Operator's legal liability under said Article 11, which is covered by this Guaranty, is:

a. In the case of a Tank Vessel, \$500.00 per gross ton of such Tank Vessel. The foregoing amount of coverage provided by the Guarantor on behalf of the Commonwealth of Virginia in respect to any of the Tank Vessels is not conditioned or dependent in any way upon any agreement or understanding between the Operator and the Guarantor that any of the Tank Vessels will or will not carry oil, or will or will not operate in certain waters.

2. The Guarantor's liability under this Guaranty shall attach only in relation to incidents giving rise under said Article 11 to causes of action against the Operator in respect of any of the Tank Vessels for discharge or threat of discharge of oil, occurring on or after the effective date of this Guaranty, which, as to each of the Tank Vessels, shall be the date the tank vessel is named in Schedule A or added to Schedule B below, and before the termination date of this Guaranty, which, as to each of the Tank Vessels, shall be the date 30 days after the date of receipt by the Department of Environmental Quality, Office of Spill Response and Remediation, P.O. Box 10009, Richmond, Va. 23240-0009 of written notice that the Guarantor has elected to terminate this Guaranty, with respect to any of the Tank Vessels, and has so notified the Operator, provided, however, that with respect to any Tank Vessel carrying oil in bulk as cargo that has been loaded before the scheduled date of termination, the termination shall not become effective (1) until completion of discharge of such cargo, or (2) until 60 days after the date of receipt by the Department of Environmental Quality of written notice of termination, whichever date is earlier. Termination of this Guaranty as to any of the Tank Vessels shall not affect the liability of the Guarantor in connection with an incident occurring before the date of termination becomes effective.

3. Any claim against the Operator arising under said Article 11 may be brought directly against the Guarantor; provided, however, that in the event of a direct claim the Guarantor shall be entitled to invoke only the rights and defenses permitted by § 62.1-44.3-18 of the Code of Virginia to the tank vessel operator.

4. If, during the currency of this Guaranty, the Operator requests that a tank vessel operated by the Operator, and not specified in the annexed Schedules A and B, should become subject to this Guaranty,

Proposed Regulations

9 VAC 25-101-10 et seq.

**SCHEDULE A
TANK VESSELS INITIALLY LISTED**

Tank Vessel Name	Gross Tons	Operator
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**SCHEDULE B
TANK VESSELS ADDED IN ACCORDANCE WITH CLAUSE 4**

Tank Vessel Name	Gross Tons	Operator	Date Added
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VA.R. Doc. Nos. R97-743 and R97-744; Filed August 25, 1997, 11:34 a.m.

REGISTRAR'S NOTICE: The following regulation filed by the State Water Control Board is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 C 12 of the Code of Virginia, which exempts general permits issued by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1 if the board: (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of subsection B of § 9-6.14:7.1; (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action, forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit; (iii) provides notice and receives oral and written comment as provided in § 9-6.14:7.1 F; and (iv) conducts at least one public hearing on the proposed general permit.

Title of Regulation: 9 VAC 25-120-10 et seq. ~~Corrective Action Plan (CAP) General Permit Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges from Petroleum Contaminated Sites~~ (amending 9 VAC 25-120-10, 9 VAC 25-120-20, 9 VAC 25-120-40, 9 VAC 25-120-50, 9 VAC 25-120-60, 9 VAC 25-120-70, and 9 VAC 25-120-80; adding 9 VAC 25-120-31; and repealing 9 VAC 25-120-30).

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

Public Hearing Date: October 21, 1997 - 2 p.m.

Public comments may be submitted until 4 p.m. on November 17, 1997.

(See Calendar of Events section for additional information)

Summary:

The State Water Control Board proposes to adopt a general permit regulation that will authorize the discharge of wastewater from sites contaminated by petroleum products. This general permit will replace the Corrective Action Plan general permit, VAG000002, which expires February 24, 1998. Owners covered under the expiring general permit who wish to continue to discharge under a general permit must register for coverage under the new general permit. Coverage under the proposed general permit would not be allowed where regulations require the issuance of an individual permit. The general permit would not be issued to facilities proposing to discharge to state waters designated as public water supplies, to waters specifically named in other board regulations or policies which prohibit such discharge, or to facilities where central wastewater treatment is reasonably available.

Petroleum contamination can occur as a result of leaks from aboveground or underground storage tanks, pipeline leaks, surface oil spills and poor housekeeping at facilities that handle petroleum products. When the

structural integrity of storage tanks or pipelines is tested with water pressure, the water may become contaminated with petroleum products. For the purposes of this general permit, "petroleum products" means petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils. Petroleum products does not include hazardous waste as defined by the Virginia Hazardous Waste Regulations, 9 VAC 20-60-10 et seq.

The following specific activities are covered under the proposed general permit: excavation dewatering, bailing groundwater monitoring wells, groundwater well development, groundwater pump tests to characterize site conditions, hydrostatic testing of petroleum storage tanks or pipelines, groundwater pumping associated with petroleum product recovery, or discharges resulting from another petroleum product cleanup activity approved by the Department of Environmental Quality.

The effluent limits are established according to the duration and frequency of the discharge, the type of petroleum product causing the contamination and the nature of the waterbody receiving the discharge. The proposed general permit establishes effluent limits or monitoring requirements for long-term or frequent discharges for the following parameters: flow, benzene, toluene, ethylbenzene, xylene, methyl tert-butyl ether, naphthalene, total petroleum hydrocarbons, lead, hardness, pH, volatile and semi-volatile organic compounds, and heavy metals. There may be a number of situations where petroleum-contaminated wastewater may have to be discharged only once at a site. In order to ensure maintenance of water quality in the receiving streams during these discharge events, the general permit refers to the General Standard of the Water Quality Standards rather than establishing specific numeric effluent limits. This narrative general standard requires that all state waters be maintained to protect designated uses such as the growth and propagation of aquatic life. The proposed regulation also establishes minimum information requirements for all requests for coverage under the general permit.

CHAPTER 120.

CORRECTIVE ACTION PLAN (CAP) GENERAL PERMIT VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES.

9 VAC 25-120-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law, ~~9 VAC 25-30-10 (Permit Regulation) and 9 VAC 25-580-10 et seq. (Underground Storage Tanks, Technical Standards and Corrective Action Requirements)~~ and 9 VAC 25-31-10 et seq. (VPDES permit regulation) unless the context clearly

Proposed Regulations

indicates otherwise, except that for the purposes of this chapter:

"Petroleum products" means gasoline, diesel, jet fuel and ~~keresene~~ petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils. "Petroleum products" does not include hazardous waste as defined by the Virginia Hazardous Waste Regulations, 9 VAC 20-60-10 et seq.

9 VAC 25-120-20. Purpose.

This general permit regulation governs the ~~cleanup of releases of discharge of wastewaters from sites contaminated by petroleum products from regulated underground storage tank systems.~~ Petroleum-contaminated wastewater may be discharged from the following activities: excavation dewatering, bailing groundwater monitoring wells, groundwater well development, conducting pump tests to characterize site conditions, hydrostatic tests of petroleum storage tanks or pipelines, pumping contaminated groundwater to remove free product from the ground, or discharges resulting from another petroleum product cleanup activity approved by the department. Discharges not associated with petroleum-contaminated water are not covered under this general permit.

9 VAC 25-120-30. Authority for regulation. (Repealed.)

~~The authority for this chapter is pursuant to the State Water Control Law §§ 62.1-44.15 (7), (9), (10), (14); 62.1-44.16; 62.1-44.17; 62.1-44.21; § 62.1-44.34.9 of the Code of Virginia and 33 USC 1251 et seq. and 9 VAC 25-30-320 of the Permit Regulation (9 VAC 25-30-10 et seq.) and Part VI of the Underground Storage Tanks; Technical Standards and Corrective Action Requirements (9 VAC 25-580-10 et seq.).~~

9 VAC 25-120-31. Evaluation of chapter and petitions for reconsideration or revision.

A. Within three years after the effective date of this chapter, the department shall perform an analysis of this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter; (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner; (iii) an assessment of the effectiveness of this chapter; (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this chapter which are more stringent than federal requirements; and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

B. The board shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this chapter.

9 VAC 25-120-40. Delegation of authority.

The ~~executive~~ director, or his ~~designee~~ an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

9 VAC 25-120-50. Effective date of the permit.

This general permit will become effective on February 24, ~~1993~~ 1998. This general permit will expire five years from the effective date. This general permit is effective as to any covered owner or operator upon compliance with all the applicable provisions of 9 VAC 25-120-60 and, except for discharges authorized under 9 VAC 25-120-60 B, the receipt of this CAP general permit.

9 VAC 25-120-60. Authorization to ~~clean up contaminated underground storage tank sites discharge.~~

A. Any owner or operator governed by this general permit is hereby authorized to ~~clean up a contaminated underground storage tank site discharge to surface waters~~ within the Commonwealth of Virginia provided that the owner or operator files and receives acceptance by the board of the registration statement of 9 VAC 25-120-70; and complies with the applicable effluent limitations and other requirements of 9 VAC 25-120-80, and provided that:

1. Individual permit. The owner or operator shall not have been required to obtain an individual permit as may be required in 9 VAC 25-30-320 B of the Permit Regulation; according to 9 VAC 25-31-170 B;
2. Prohibited discharge locations. The owner or operator shall not be authorized by this general permit to discharge to state waters where designated as public water supplies or specifically named in other board regulations or policies which prohibit such discharges; and
3. Central wastewater treatment facilities. The owner or operator shall not be authorized by this general permit to discharge to surface waters where there are permitted central wastewater treatment facilities reasonably available, as determined by the board.
4. Local government notification. ~~The owner or operator shall obtain the notification from the governing body of the county, city or town required by § 62.1-44.15:3 of the Code of Virginia.~~
5. Corrective action plan (CAP). ~~The owner or operator shall have submitted a corrective action plan and CAP checklist to the board and the board shall have approved the plan after ensuring that implementation of the plan will adequately protect human health, safety and the environment.~~

Proposed Regulations

B. The requirements of 9 VAC 25-120-70 do not apply to discharges of wastewaters from sites contaminated by petroleum products if the duration of the discharge from a particular site does not exceed a period of 72 consecutive hours and if the discharge does not occur more than once in three years. Discharges of wastewaters contaminated by petroleum products which meet these duration and frequency criteria are authorized under this general permit provided the discharge does not result in a visible sheen on the receiving waters and does not otherwise violate the general water quality standard of 9 VAC 25-260-20. Any owner discharging under the provisions of this subsection shall:

1. Prior to commencing the discharge, provide notice to the department and the locality wherein the discharge is proposed to take place of the location of the discharge and the anticipated volume and duration of the discharge;
2. Allow the department to inspect the location where the discharge is to occur; and
3. Within five days of completion of the discharge, submit a written report to the department and the locality which contains:
 - a. A description of the nature and location of the discharge;
 - b. The cause of the discharge;
 - c. The date on which the discharge occurred;
 - d. The duration and estimated volume of the discharge;
 - e. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges at that location; and
 - f. The name and title of the local government official notified prior to the discharge.

Receipt of C. Coverage under this GAP general permit does not relieve any owner or operator of the responsibility to comply with any other appropriate federal, state or local statute, ordinance or regulation.

9 VAC 25-120-70. Registration statement.

The owner or operator shall file a complete GAP general permit registration statement. The required registration statement shall be in the following form contain the following information:

~~CORRECTIVE ACTION PLAN GENERAL VPDES PERMIT~~
REGISTRATION STATEMENT

~~FOR CLEANUP OF RELEASES OF DISCHARGES FROM~~
~~PETROLEUM PRODUCTS FROM UNDERGROUND~~
~~STORAGE TANK (UST) SYSTEMS CONTAMINATED SITES~~

1. Legal Name of UST System Facility

2. Location of UST System Facility (Address and Telephone Number)

3. UST System Facility Owner or Operator

Last Name _____ First Name _____ M.I. _____

4. Address of Owner or Operator

Street _____

City _____ State _____ Zip _____

5. Phone

Home _____ Work _____

6. Nature of the business conducted at the facility

6-7. Type of petroleum products causing or that caused contamination.

8. Which activities will result in a point source discharge from the petroleum contaminated site? (Check all that apply)

- Excavation dewatering
- Bailing groundwater monitoring wells
- Groundwater well development
- Pump tests to characterize site conditions
- Hydrostatic tests of petroleum storage tanks or pipelines
- Pumping contaminated groundwater to remove petroleum products from the ground
- Other (specify) _____

7-9. Has the corrective action plan a site characterization report for this site been submitted to the State Water Control Board, in accordance with 9 VAC 25-580-280 Department of Environmental Quality? Yes ___ No ___

8-Will the cleanup result in a point source discharge to surface waters? Yes.... No....

9-If yes, 10. Identify the discharge point and the waterbody into which the discharge will occur.

If no, identify the procedures that will be utilized to prevent a point source discharge to surface waters.

11. How often will the discharge occur (e.g., daily, monthly, continuously)? _____

12. Estimate how long each discharge will last _____ hours/days.

13. Estimate total volume of wastewater to be discharged _____ gal.

14. Estimate maximum flow rate of the discharge _____ gal/day.

Proposed Regulations

15. Attach a diagram of the proposed wastewater treatment system identifying the individual treatment units.

~~40.~~ 16. Attach a topographic or other map which indicates the UST system, the receiving waterbody name and the discharge point, as well as points, the property boundaries, as well as springs, other surface waterbodies, drinking water wells, downstream houses, etc. and public water supplies, which are identified in the public record or are otherwise known to the applicant, within a 1/2 mile radius of the site proposed discharges.

~~41.~~ The owner or operator must attach to this registration statement the notification from the governing body of the county, city or town required by § 62.1-44.15:3 of the Code of Virginia.

~~42.~~ 17. Are central wastewater treatment facilities available to this site? Yes ___ No ___ If yes, has the option of discharging to the central facilities been evaluated? What was the result of that evaluation?

~~43.~~ 18. Does this UST system facility currently have a permit issued by the board? Yes ___ No ___

If yes, please provide permit number: _____

19. Pollution complaint number (if applicable) _____

20. Is the material being treated or discharged classified as a hazardous waste under the Virginia Hazardous Waste Regulation, 9 VAC 20-60-10 et seq.? Yes ___ No ___

Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations. I do also hereby grant duly authorized agents of the Department of Environmental Quality, upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the general permit.

Signature: _____ Date: _____

Print Name: _____

Title: _____

For Water Control Board department use only:

Registration Statement Accepted/Not Accepted by: _____

Date: _____

Basin _____ Stream Class _____ Section _____

Special Standards _____

9 VAC 25-120-80. General permit.

Any owner or operator whose registration statement request for coverage under this general permit is accepted by the board will receive the following permit and shall comply with the requirements therein of the general permit and be subject to all requirements of 9 VAC 25-30-320 9 VAC 25-31-170 B of the VPDES permit regulation. Not all pages of Part I A or B of the general permit will apply to every permittee. The determination of which pages apply will be based on the type of contamination and the medium, soil or water, contaminated at the individual site, the duration of the discharge and the nature of the waters receiving the discharge. All pages of Parts Part II, III and IV apply to all permittees.

General Permit No.: VAG000002 VAG83

Effective Date:

Expiration Date:

CORRECTIVE ACTION PLAN GENERAL VPDES PERMIT
FOR DISCHARGES FROM PETROLEUM CONTAMINATED
SITES

AUTHORIZATION TO CLEANUP RELEASES OF
PETROLEUM PRODUCTS FROM UNDERGROUND
STORAGE TANK (UST) SYSTEMS AND TO DISCHARGE
OR MANAGE POLLUTANTS UNDER THE CORRECTIVE
ACTION PLAN, THE VIRGINIA POLLUTANT DISCHARGE
ELIMINATION SYSTEM PERMIT PROGRAM AND THE
VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, the State Water Control Law and regulations adopted pursuant to it thereto, owners or operators are the owner is authorized to clean up releases of petroleum products from UST systems and to manage pollutants or discharge to surface waters at the locations identified in the accepted registration statement within the boundaries of the Commonwealth of Virginia, except to designated public water supplies or waters where specifically named in other board regulations or policies which prohibit such discharges.

The authorized cleanup of the contamination and the discharge or management of pollutants shall be in accordance with the Corrective Action Plan, this cover page, Part I - Effluent Limitations and Monitoring Requirements and CAP Monitoring Requirements, Part II Corrective Action Plan Requirements, and Post Operational Monitoring and Closure Requirements, Part III Monitoring and Reporting Requirements, and Part IV Management Requirements Part II - Conditions Applicable to All VPDES Permits, as set forth here herein.

If there is any conflict between the requirements of the Corrective Action Plan a Department of Environmental Quality approved cleanup plan and this permit, the requirements of this permit shall govern.

PART I.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. GASOLINE CONTAMINATION - FRESHWATER RECEIVING WATERS.

4- During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to freshwater receiving waterbodies ~~treated groundwater that has been contaminated with gasoline~~ from outfall serial number 004 XXXX. *THIS AUTHORIZATION APPLIES TO DISCHARGES THAT ARE NOT CONFINED TO A PERIOD OF 72 CONSECUTIVE HOURS OR THAT OCCUR MORE FREQUENTLY THAN ONCE IN THREE YEARS.* Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Benzene (ug/l)	NA	50 ug/l	1/Month	Grab*
Toluene (ug/l)	NA	175 ug/l	1/Month	Grab*
Ethylbenzene (ug/l)	NA	320 ug/l	1/Month	Grab*
Total xylenes (ug/l)	NA	74 ug/l 82	1/Month	Grab*
MTBE (methyl tert-butyl ether) (ug/l)	NA	NL	1/Month	Grab*
pH (standard units)	6.0	9.0	1/Month	Grab
Total recoverable lead* (ug/l)	NA	$e^{(1.273(\ln \text{hardness}^{**})) - 4.705}$	1/Month	Grab***
Hardness (mg/l as CaCO ₃)*	NL	NA	1/Month	Grab***

NL = No Limitation, monitoring required

NA = Not Applicable

* Benzene, Toluene, Ethylbenzene and Total Xylenes and MTBE shall be analyzed according to EPA Method 602 (40 CFR Part 136, 1996) or SW 846 Method 8020 (1986) (1992).

** Hardness of the effluent.

*** Monitoring for this parameter is required only when contamination results from leaded fuel. Lead analysis shall be according to EPA Method 239.2 (40 CFR Part 136, 1996) or SW 846 Method 7421 (1986).

~~2. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

PART II.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

~~KEROSENE, JET FUEL, DIESEL~~ 2. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE - FRESHWATER RECEIVING WATERS.

4- During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to freshwater receiving waterbodies ~~treated around water that has been contaminated with kerosene, jet fuel or diesel~~ from outfall serial number 004 xxxx. *THIS AUTHORIZATION APPLIES TO DISCHARGES THAT ARE NOT CONFINED TO A PERIOD OF 72 CONSECUTIVE HOURS OR THAT OCCUR MORE FREQUENTLY THAN ONCE IN THREE YEARS.* Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

Proposed Regulations

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Naphthalene (ug/l)	NA	62 ug/l	1/Month	Grab*
Total petroleum hydrocarbons (mg/l)	NA	NL 15	1/Month	Grab**
pH (standard units)	6.0	9.0	1/Month	Grab
Semi-volatile organics***	NA	NL	1/Year****	Grab
Volatile organics***	NA	NL	1/Year****	Grab
Dissolved metals***	NA	NL	1/Year****	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

* Naphthalene analysis shall be according to either EPA Method 610 (1994) (40 CFR Part 136, 1996) or EPA SW 846 Method 8270 (1995).

** TPH shall be analyzed using the GC-FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with EPA SW 846 Method 3510 (1987) for sample preparation either the Wisconsin Department of Natural Resources modified Diesel Range Organics test method as specified in Wisconsin publication SW-141 (1995) or EPA Method 1664 (1996).

2. There shall be no discharge of floating solids or visible foam in other than trace amounts.

*** Monitoring for these parameters is required only when contamination is from used oils. The permittee shall report concentrations of all compounds or elements detected by the following analytical methods: Semi-volatile organics according to EPA Method 1625 (40 CFR Part 136, 1996) or SW 846 Method 8270 (1995); Volatile organics according to EPA Method 1624 (40 CFR Part 136, 1996) or SW 846 Method 8260 (1995); Dissolved metals according to EPA Method 200.7 (40 CFR Part 136, 1996) or SW 846 Method 6010 (1995).

**** The first annual sample shall be collected within 72 hours of commencement of the discharge.

PART III.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

3. GASOLINE CONTAMINATION - SALTWATER RECEIVING WATERS.

4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to saltwater receiving waterbodies ~~treated groundwater that has been contaminated with gasoline~~ from outfall serial number 004 xxxx. THIS AUTHORIZATION APPLIES TO DISCHARGES THAT ARE NOT CONFINED TO A PERIOD OF 72 CONSECUTIVE HOURS OR THAT OCCUR MORE FREQUENTLY THAN ONCE IN THREE YEARS. Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Benzene (ug/l)	NA	50 ug/l	1/Month	Grab*
Toluene (ug/l)	NA	500 ug/l	1/Month	Grab*
Ethylbenzene (ug/l)	NA	4.3 ug/l	1/Month	Grab*
Total xylenes (ug/l)	NA	43 ug/l 74	1/Month	Grab*

Proposed Regulations

MTBE (methyl tert-butyl ether) (ug/l)	NA	NL	1/Month	Grab*
pH (standard units)	6.0	9.0	1/Month	Grab
Total recoverable lead* (ug/l)	NA	8.5 ug/l	1/Month	Grab**

NL = No Limitation, monitoring required

NA = Not Applicable

* Benzene, Toluene, Ethylbenzene and Total Xylenes and MTBE shall be analyzed according to EPA Method 602 (40 CFR Part 136, 1996) or SW 846 Method 8020 (1986) (1992).

** Monitoring for this parameter is required only when contamination results from leaded fuel. Lead analysis shall be according to EPA Method 239.2 (40 CFR Part 136, 1996) or SW 846 Method 7421 (1986).

~~2. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

PART IV I.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

~~KEROSENE, JET FUEL, DIESEL~~ 4. CONTAMINATION BY PETROLEUM PRODUCTS OTHER THAN GASOLINE - SALTWATER RECEIVING WATERS.

~~4. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge to saltwater receiving waterbodies treated groundwater that has been contaminated with kerosene, jet fuel or diesel from outfall serial number 004 xxxx. THIS AUTHORIZATION APPLIES TO DISCHARGES THAT ARE NOT CONFINED TO A PERIOD OF 72 CONSECUTIVE HOURS OR THAT OCCUR MORE FREQUENTLY THAN ONCE IN THREE YEARS.~~ Samples taken in compliance with the monitoring requirements specified below shall be taken at the following location: Outfall from the final treatment unit prior to mixing with any other waters.

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Instantaneous Minimum	Instantaneous Maximum	Frequency	Sample Type
Flow (MGD)	NA	NL	1/Month	Estimate
Naphthalene (ug/l)	NA	23.5 ug/l	1/Month	Grab*
Total petroleum hydrocarbons (mg/l)	NA	NL 15	1/Month	Grab**
pH (standard units)	6.0	9.0	1/Month	Grab
Semi-volatile organics***	NA	NL	1/Year****	Grab
Volatile organics***	NA	NL	1/Year****	Grab
Dissolved metals***	NA	NL	1/Year****	Grab

NL = No Limitation, monitoring required

NA = Not Applicable

* Naphthalene analysis shall be according ~~the EPS~~ to either EPA Method 610 (1994) (40 CFR Part 136, 1996) or EPA SW 846 Method 8270 (1995).

** TPH shall be analyzed using ~~the GC-FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with EPS SW 846 Method 3510 (1987) for sample preparation either the Wisconsin Department of Natural Resources modified Diesel Range Organics test method as specified in Wisconsin publication SW-141 (1995) or EPA Method 1664 (1996).~~

~~2. There shall be no discharge of floating solids or visible foam in other than trace amounts.~~

*** Monitoring for these parameters is required only when contamination is from used oils. The permittee shall report concentrations of all compounds or elements detected by the following analytical methods: Semi-volatile organics according to

Proposed Regulations

EPA Method 1625 (40 CFR Part 136, 1996) or SW 846 Method 8270 (1995); Volatile organics according to EPA Method 1624 (40 CFR Part 136, 1996) or SW 846 Method 8260 (1995); Dissolved metals according to EPA Method 200.7 (40 CFR Part 136, 1996) or SW 846 Method 6010 (1995).

**** The first annual sample shall be collected within 72 hours of commencement of the discharge.

PART V I.

~~A. CAP MONITORING REQUIREMENTS - MONITORING FREE PRODUCT.~~

~~1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor free product. Samples taken in compliance with the monitoring requirements specified below shall be taken at the locations identified in the Corrective Action Plan.~~

~~Monitoring of the contaminated area during the cleanup operation shall be required as specified below:~~

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Free Product	1/Quarter	Measurement*

~~* Free Product measurement shall be done by probe or bailer prior to well bailing or sample collection and shall measure product thickness to an accuracy within 0.01 feet.~~

~~2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements for system shutdown.~~

~~3. There shall be no discharge to surface water from this free product monitoring operation.~~

~~A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.~~

~~5. ALL PETROLEUM PRODUCTS - ONE DISCHARGE IN THREE YEARS - ALL WATERS.~~

~~During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge from outfall serial number 001. THESE DISCHARGES SHALL OCCUR WITHIN A PERIOD OF 72 CONSECUTIVE HOURS AND THERE SHALL BE AT LEAST THREE YEARS BETWEEN DISCHARGES AT THE SITE.~~

~~Such discharges shall be limited as specified below:~~

~~Discharges of wastewaters contaminated by petroleum products which meet these duration and frequency criteria are authorized under this general permit provided the discharge does not result in a visible sheen on the receiving waters and does not otherwise violate the general water quality standard of 9 VAC 25-260-20. Any permittee discharging under this provision shall:~~

a. Prior to commencing the discharge, provide notice to the department and the locality wherein the discharge is proposed to take place of the location of the discharge and the anticipated volume and duration of the discharge;

b. Allow the department to inspect the location where the discharge is to occur; and

c. Within five days of completion of the discharge, submit a written report to the department and the locality which contains:

(1) A description of the nature and location of the discharge;

(2) The cause of the discharge;

(3) The date on which the discharge occurred;

(4) The duration and estimated volume of the discharge;

(5) Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges at that location; and

(6) The name and title of the local government official notified prior to the discharge.

PART VI.

~~A. CAP MONITORING REQUIREMENTS - MONITORING SOIL VAPOR.~~

~~1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor soil vapor at the well or sample locations identified in the Corrective Action Plan.~~

~~Monitoring of the contaminated area during the cleanup operation shall be required as specified below:~~

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Volatile Organics	1/Quarter	Air Sample*

~~* Air sample collection shall be according to EPA stationary source Method 18 (1992) and sample analysis shall be according to EPA Method TO 3 (1984) for volatile organics or other staff approved method.~~

~~2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements of system shutdown.~~

PART VII.

~~A. CAP MONITORING REQUIREMENTS—MONITORING RESIDUAL PRODUCT IN SOIL FOR IN-SITU TREATMENT—GASOLINE CONTAMINATION.~~

~~1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in soil that has been contaminated with gasoline at the location specified in the Corrective Action Plan.~~

~~Monitoring of the contaminated area during the cleanup operation shall be required as specified below:~~

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Benzene	1/Year	Soil Sample*
Toluene	1/Year	Soil Sample*
Ethylbenzene	1/Year	Soil Sample*
Total Xylenes	1/Year	Soil Sample*

~~2. Post-operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements for system shutdown.~~

~~3. There shall be no discharge to surface water from this monitoring of residual product in soil or from the in-situ treatment operation.~~

* Benzene, Toluene, Ethylbenzene and Total Xylenes BTEX soil samples shall be collected using either a split spoon sampler or hand auger and shall be screened using a Photoionization or Flame Ionization Detector (PID/FID) type instrument. When a split spoon sampler is used the sample shall be screened using a PID/FID detector and the segment of the boring that gave the highest PID/FID reading shall be analyzed. When a hand auger is used soil shall be removed in one foot increments and screened with the PID/FID as they are removed. A discrete BTEX soil sample from the segment of the boring that gives the highest PID/FID reading shall be analyzed using EPA SW 846 Method 8020 (1986) modified for soils.

PART VIII.

~~A. CAP MONITORING REQUIREMENTS—MONITORING RESIDUAL PRODUCT IN SOIL FOR IN-SITU TREATMENT—KEROSENE, JET FUEL, DIESEL CONTAMINATION.~~

~~1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in soil that has been contaminated with kerosene, jet fuel or diesel at the locations specified in the Corrective Action Plan.~~

~~Monitoring of the contaminated area during the cleanup operation shall be required as specified below:~~

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE

~~Total Petroleum Hydrocarbons (TPH)~~

~~1/Year~~

~~Soil Sample*~~

~~2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements for system shutdown.~~

~~3. There shall be no discharge to surface water from this monitoring of residual product in soil or from the in-situ treatment operation.~~

* TPH soil samples shall be collected using either a split spoon sampler or hand auger and shall be screened using a Photoionization or Flame Ionization Detector (PID/FID) type instrument. When a split spoon sampler is used the sample shall be screened using a PID/FID detector and the segment of the boring that gave the highest plus PID/FID reading shall be analyzed. When a hand auger is used soil shall be removed in one foot increments and screened with the PID/FID as they are removed. A discrete TPH soil sample from the segment of the boring that gives the highest PID/FID reading shall be analyzed using the GC-FID method as specified in the California Department of Health Services LUF Manual (1989) using the appropriate standards with EPA SW 846 Method 3550 (Sonication) (1986) for sample preparation.

PART IX.

~~A. CAP MONITORING REQUIREMENTS—MONITORING RESIDUAL PRODUCT IN EXCAVATED SOIL—GASOLINE CONTAMINATION.~~

~~1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in the excavated soil that has been contaminated with gasoline at the locations identified in the Corrective Action Plan.~~

~~Monitoring of the contaminated area during the cleanup operation shall be required as specified below:~~

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE

~~Benzene~~

~~1/Quarter~~

~~Grab*~~

~~Toluene~~

~~1/Quarter~~

~~Grab*~~

~~Ethylbenzene~~

~~1/Quarter~~

~~Grab*~~

~~Total Xylenes~~

~~1/Quarter~~

~~Grab*~~

~~2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements for system shutdown.~~

Proposed Regulations

3. There shall be no discharge to surface water from this monitoring of residual product in excavated soil or from this treatment operation.

* Benzene, Toluene, Ethylbenzene and Total Xylenes (BTEX) soil samples shall be collected using a hand auger and shall be screened using a photoionization or flame ionization detector (PID/FID) type instrument. A discrete BTEX soil sample from the segment of the boring that gives the highest PID/FID reading shall be analyzed using EPA SW 846 Method 8020 (1986) modified for soils.

PART X.

A. CAP MONITORING REQUIREMENTS—MONITORING RESIDUAL PRODUCT IN EXCAVATED SOIL—KEROSENE, JET FUEL, DIESEL CONTAMINATION.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor residual product in the excavated soil that has been contaminated with kerosene, jet fuel or diesel at the locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Total Petroleum Hydrocarbons (TPH)	1/Quarter	Grab*

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements for system shutdown.

3. There shall be no discharge to surface water from this monitoring of residual product in excavated soil or from this treatment operation.

* TPH soil samples shall be collected using a hand auger and shall be screened using a photoionization or flame ionization detector (PID/FID) type instrument. A discrete TPH soil sample from the segment of the boring that gives the highest PID/FID reading shall be analyzed using the GC-FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with EPA SW 846 Method 3550 (Sonication) (1986) for sample preparation.

PART XI.

A. CAP MONITORING REQUIREMENTS—MONITORING GROUNDWATER—GASOLINE CONTAMINATION

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor groundwater that has been contaminated with

gasoline at the well or sample locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Benzene	1/Quarter	Grab*
Toluene	1/Quarter	Grab*
Ethylbenzene	1/Quarter	Grab*
Total Xylenes	1/Quarter	Grab*
Total Lead**	1/Quarter	Grab**
Ground Water Elevation (Ft.)	1/Quarter	Measure***

2. Post operational monitoring of the contaminated area after shutdown shall be required as described in Part II B

1. See Part II A 4 c for the requirements for system shutdown.

3. There shall be no discharge to surface water from this groundwater monitoring operation, except as authorized elsewhere in Part I A of this permit.

* Benzene, Toluene, Ethylbenzene and Total Xylenes shall be analyzed according to EPA SW 846 Method 8020 (1986).

** Monitoring for this parameter is required only when contamination results from leaded fuel. Total lead analysis shall be according to EPA SW 846 Method 7421 (1986).

*** The ground water elevation shall be determined prior to bailing or sampling of wells. Groundwater measurement accuracy shall be within 0.01 feet and reported in relation to mean sea level.

PART XII.

A. CAP MONITORING REQUIREMENTS—MONITORING GROUNDWATER—KEROSENE, JET FUEL, DIESEL CONTAMINATION.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is required to monitor groundwater that has been contaminated with kerosene, jet fuel or diesel at the well/sample locations identified in the Corrective Action Plan.

Monitoring of the contaminated area during the cleanup operation shall be required as specified below:

PARAMETERS	MONITORING REQUIREMENTS	
	FREQUENCY	SAMPLE TYPE
Total Petroleum Hydrocarbons (TPH)	1/Quarter	Grab*

Ground Water 1/Quarter Measure**
Elevation (Ft.)

* TPH shall be analyzed using the GC FID method as specified in the California Department of Health Services LUFT Manual (1989) using the appropriate standards with EPA SW 846 Method 3510 (1987) for sample preparation.

** The groundwater elevation shall be determined prior to bailing or sampling of wells. Groundwater measurement accuracy shall be within 0.01 feet and reported in relation to mean sea level.

2. Post operational monitoring of the contaminated area after system shutdown shall be required as described in Part II B 1. See Part II A 4 c for the requirements for system shutdown.

3. There shall be no discharge to surface water from this groundwater monitoring operation, except as authorized elsewhere in Part I A of this permit.

PART XIII I.

A. Corrective action plan requirements. B. SPECIAL CONDITIONS.

1. In accordance with State Water Control Board Regulation 9 VAC 25-580-10 et seq. the permittee shall immediately provide an alternate water supply to any user of groundwater should monitoring of the release covered by the corrective action plan and this permit indicate pollutant contamination of existing water supply wells for any parameter listed in the groundwater monitoring requirement found in Part I A of this permit. There shall be no discharge of floating solids or visible foam in other than trace amounts.

2. The permittee shall sample each permitted outfall each calendar month in which a discharge occurs. When no discharge occurs from an outfall during a calendar month, the discharge monitoring report for that outfall shall be submitted indicating "No Discharge."

2-3. O & M Manual. The owner or operator Within 30 days of coverage under this general permit, the permittee shall develop and submit within 30 days of coverage under this general permit maintain on site, an Operations and Maintenance (O & M) Manual for the treatment works permitted here herein. This manual shall detail practices and procedures which will be followed to ensure compliance with the requirements of this permit. The owner or operator permittee shall operate the remediation program and treatment works in accordance with the O & M Manual. The manual shall be made available to the department upon request.

3. Corrective action plan. Coverage under this general permit constitutes approval of the corrective action plan (CAP). The approved CAP and any subsequent modifications approved by the board are incorporated into this permit and noncompliance with the CAP is a violation of this permit. Cleanup of the release of

petroleum products from the UST system shall be conducted in accordance with the CAP.

If, at any given time during the life of this permit the board determines that cleanup is not proceeding in a satisfactory manner, the permittee will be required to reevaluate the cleanup approach and submit CAP modifications within 30 days of notification from the board. This notification will include a summary of the existing CAP deficiencies. The permittee may at any time request CAP modifications.

4. Cleanup endpoints.

a. Cleanup endpoints for each phase of contamination are specified in the approved corrective action plan.

b. The endpoints must be achieved within the zone of contamination, as evidenced by Part I.A. CAP monitoring requirements and using specific board approved methods of analysis.

c. After demonstrating that the cleanup endpoints in the approved corrective action plan have been maintained for two consecutive quarters, the permittee may request that the executive director allow a shutdown of the system and the permittee shall initiate post operational monitoring (as described in Part II B 1).

5. 4. Operation schedule. The permittee shall construct, install and begin operating the cleanup system approved by the board within 60 days of coverage under this general permit treatment works described in the registration statement prior to discharging to surface waters. The permittee shall notify the board's department's regional office within five days after the completion of installation and commencement of operation.

6. CAP permit reopener. This permit shall be modified, or alternatively revoked and reissued, to comply with any applicable effluent standard or limitation issued or approved under §§ 304(b) (2) (C), (D), and (E), 304 (b) (2) (3) (4), and 307 (a) (2) of the Clean Water Act, if the effluent standard or limitation so issued or approved:

a. Contains different conditions or is otherwise more stringent than any effluent limitation in the permit; or

b. Controls any pollutant not limited in the permit. The permit as modified or reissued under this paragraph shall also contain any other requirements of the Act then applicable.

7. Resumption of cleanup. The permittee shall resume cleanup immediately at the site if post operational monitoring results indicate that the cleanup goals are no longer being maintained. The permittee shall resume cleanup operations in accordance with the approved CAP and this permit.

8. Annual evaluation reports. The permittee shall submit annual reports which evaluate the effectiveness of the

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~~corrective action plan and its progress toward achieving cleanup endpoints to the board's regional office. The first report shall be submitted within 12 months of coverage under this general permit and yearly thereafter.~~

~~9. Other requirements~~ 5. *Materials storage.* Except as expressly authorized by this permit or another permit issued by the board, no product, materials, industrial wastes, or other wastes resulting from the purchase, sale, mining, extraction, transport, preparation, or storage of raw or intermediate materials, final product, by-product or wastes, shall be handled, disposed of, or stored so as to permit a discharge of such product, materials, industrial wastes, or other wastes to state waters.

6. *If the permittee discharges to surface waters through a municipal separate storm sewer system, the permittee shall, within 30 days of coverage under this general permit, notify the owner of the municipal separate storm sewer system of the existence of the discharge and provide the following information: the name and location of the facility, a contact person and telephone number; the nature of the discharge; and the number of outfalls.*

~~B. Post operational monitoring and closure requirements.~~

~~1. Post operational monitoring requirements.~~ After system shutdown, the permittee shall initiate post operational monitoring, which shall be a continuation of the monitoring required in Part I A, for a period of one year.

~~Post operational monitoring for in situ treatment of residual product in the soil shall be conducted at the end of the one year period.~~

~~2. Closure requirement~~ 7. *Termination of coverage.* Provided that the post operational monitoring confirms the remediation endpoints have been maintained department agrees that the discharge covered under this general permit is no longer needed, the permittee may request site closure and termination of coverage under the general permit, for the entire facility or for specific outfalls, by submitting a request for termination of coverage. This request for termination of coverage shall be sent to the board's department's regional office with appropriate documentation or references to documentation already in the board's department's possession. Upon the permittee's receipt of the regional director's approval, the site shall be deemed closed and coverage under this general permit will be terminated. Termination of coverage under this general permit does not relieve the permittee of responsibilities under other board regulations or directives.

PART XIV.

MONITORING AND REPORTING.

A. Sampling and analysis methods.

~~1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.~~

~~2. Unless otherwise specified in the permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in (i) this permit, (ii) guidelines establishing test procedures for the analysis of pollutants under the Clean Water Act as published in the Federal Register (40 CFR 136 or (iii) other methods approved by the board.~~

~~3. The sampling and analysis program to demonstrate compliance with the permit shall, at a minimum, conform to Part I of this permit.~~

~~4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.~~

~~B. Recording of results.~~ For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:

~~1. The date, exact place and time of sampling or measurements;~~

~~2. The persons who performed the sampling or measurements;~~

~~3. The dates analyses were performed;~~

~~4. The persons who performed each analysis;~~

~~5. The analytical techniques or methods used;~~

~~6. The results of such analyses and measurements;~~

~~7. The method detection limit;~~

~~8. The sample medium (soil, water); and~~

~~9. The units of measure.~~

~~C. Records retention.~~ All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or report or for three years following approval of site closure, whichever is later. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

~~D. Additional monitoring by permittee.~~ If the permittee monitors any pollutant at the locations designated here more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.

~~E. Water quality monitoring. The board may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutants on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the Virginia State Water Control Law, Clean Water Act or the board's regulations.~~

~~The permittee shall obtain and report such information if requested by the board. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the board.~~

~~F. Reporting requirements.~~

~~1. The permittee shall submit original monitoring reports of each month's performance to the State Water Control Board regional office once per quarter by the 10th of the month following the end of the quarter. Reports shall be submitted on or before April 10, July 10, October 10 and January 10. This report shall include the results of all monitoring required by Part I A Effluent Limitations and Monitoring Requirements and CAP Monitoring Requirements, and Part II Corrective Action Plan Requirements and Post-Operational Monitoring and Closure Requirements.~~

~~2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the board with the monitoring report at least the following information:~~

- ~~a. A description and cause of noncompliance;~~
- ~~b. The period of noncompliance, including exact dates and times or the anticipated time when the noncompliance will cease; and~~
- ~~c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.~~

~~Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The board may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.~~

~~3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part III F 2 a through c regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the~~

~~permittee becomes aware of the circumstances covered by this paragraph.~~

~~Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations or pollutant management activities, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities or pollutant management activities, or (vi) flooding or other acts of nature.~~

~~If the regional office cannot be reached, the board maintains a 24 hour telephone service in Richmond (804 527-5200) to which the report required above is to be made.~~

~~G. Signatory requirements. Any registration statement, report, or certification required by this permit shall be signed as follows:~~

~~1. Registration statement.~~

~~a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~

~~b. For a municipality, state, federal or other public agency by either a principal executive officer or ranking elected official. (A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency).~~

~~c. For a partnership or sole proprietorship, by a general partner or proprietor respectively.~~

~~2. Reports. All reports required by permits and other information requested by the board shall be signed by:~~

~~a. One of the persons described in subdivision 1 a, b or c of this subsection; or~~

~~b. A duly authorized representative of that person. A person is a duly authorized representative only if:~~

- ~~(1) The authorization is made in writing by a person described in subdivision 1 a, b or c of this subsection;~~

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~~(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and~~

~~(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the board prior to or together with any separate information, or registration statement to be signed by an authorized representative.~~

~~3. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.~~

~~PART XV. MANAGEMENT REQUIREMENTS.~~

~~A. Change in discharge or management of pollutants.~~

~~1. Any permittee proposing a new discharge or the management of additional pollutants shall submit an amended corrective action plan and a registration statement at least 180 days prior to commencing erection, construction, or expansion or employment of new pollutant management activities or processes at any facility. There shall be no commencement of treatment or management of pollutants activities until a permit is received.~~

~~2. All discharges or pollutant management activities authorized by this permit shall be made in accordance with the terms and conditions of the permit. The permittee shall submit to the board an amended corrective action plan and a registration statement 180 days prior to all expansions, production increases, or process modifications, that will result in new or increased pollutants. The discharge or management of any pollutant more frequently than, or at a level greater than that identified and authorized by this permit, shall constitute a violation of the terms and conditions of this permit.~~

~~3. The permittee shall promptly provide written notice to the board of the following:~~

~~a. Any new introduction of pollutants, into treatment works or pollutant management activities which represents a significant increase in the discharge or management of pollutants which may interfere with, pass through, or otherwise be incompatible with such works or activities, from an establishment, treatment works, or discharges, if such establishment, treatment works, or discharges were discharging or has the potential to discharge pollutants to state waters;~~

~~b. Any substantial change, whether permanent or temporary, in the volume or character of pollutants being introduced into such treatment works by an establishment, treatment works, pollutant management activities, or discharges that was introducing pollutants into such treatment works at the time of issuance of the permit; and~~

~~c. Any reason to believe that any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":~~

~~(1) One hundred micrograms per liter (100 ug/l);~~

~~(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitrophenol and for 2-methyl 4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;~~

~~(3) Five times the maximum concentration value reported for the pollutant in the registration statement; or~~

~~(4) The level established in accordance with regulation under § 307(a) of the Clean Water Act and accepted by the board.~~

~~d. Any activity has occurred or will occur which would result in any discharge on a nonroutine or infrequent basis of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following "notification levels":~~

~~(1) Five hundred micrograms per liter (500 ug/l);~~

~~(2) One milligram per liter (1 mg/l) for antimony;~~

~~(3) Ten times the maximum concentration value reported for that pollutant in the registration statement; or~~

~~(4) The level established by the board.~~

~~Such notice shall include information on: (i) the characteristics and quantity of pollutants to be introduced into or from such treatment works or pollutant management activities; (ii) any anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from such treatment works or pollutants managed at a pollutant management activity;~~

and (iii) any additional information that may be required by the board.

B. Treatment works operation and quality control.

1. Design and operation of facilities or treatment works and disposal of all wastes shall be in accordance with the corrective action plan and registration statement filed with the State Water Control Board and in conformity with the conceptual design, or the plans, specifications, or other supporting data approved by the board. The approval of the treatment works conceptual design or the plans and specifications does not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design or operation, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.

2. All waste collection, control, treatment, management of pollutant activities and disposal facilities shall be operated in a manner consistent with the following:

a. At all times, all facilities and pollutant management activities shall be operated in accordance with the Operation and Maintenance (O&M) Manual and in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters.

b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.

c. Maintenance of treatment facilities or pollutant management activities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.

d. Collected sludges shall be stored in such a manner as to prevent entry of those wastes (or run-off from the wastes) into state waters, and disposed of in accordance with this permit or plans approved by the board.

C. Adverse impact. The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitations or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitations or conditions.

D. Duty to halt, reduce activity or to mitigate.

1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

E. Structural stability. The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.

F. Bypassing. Any bypass ("Bypass" means intentional diversion of waste streams from any portion of a treatment works) of the treatment works herein permitted is prohibited unless:

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, the permittee shall notify the board promptly at least 10 days prior to the bypass. After considering its adverse effects the board may approve an anticipated bypass if:

a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.); and

b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. However, if a bypass occurs during normal periods of equipment down time, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.

2. Unplanned bypass. If an unplanned bypass occurs, the permittee shall notify the board as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in Part IV.F 1 above and in light of the information reasonably available to the permittee at the time of the bypass.

G. Conditions necessary to demonstrate an upset. A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:

1. That an upset occurred and that the cause can be identified;

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~~2. The facility permitted here was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;~~

~~3. The permittee submitted a notification of noncompliance as required by Part III F above; and~~

~~4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.~~

~~H. Compliance with state and federal law. Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.~~

~~Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.~~

~~I. Property rights. The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.~~

~~J. Severability. The provisions of this permit are severable.~~

~~K. Duty to reregister. If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 180 days prior to the expiration date of this permit.~~

~~L. Right of entry. The permittee shall allow or secure necessary authority to allow authorized state and federal representatives, upon the presentation of credentials:~~

~~1. To enter upon the permittee's premises on which the establishment, treatment works, pollutant management activities, or discharges are located or in which any records are required to be kept under the terms and conditions of this permit;~~

~~2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;~~

~~3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;~~

~~4. To sample at reasonable times any waste stream, discharge, process stream, raw material or by product; and~~

~~5. To inspect at reasonable times any collection, treatment, pollutant management activities or discharge facilities required under this permit.~~

~~For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging or involved in managing~~

~~pollutants. Nothing contained herein shall make an inspection time unreasonable during an emergency.~~

~~M. Transferability of permits. This permit may be transferred to another person by a permittee if:~~

~~1. The current owner notifies the board 30 days in advance of the proposed transfer of the title to the facility or property;~~

~~2. The notice to the board includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and~~

~~3. The board does not within the 30-day time period notify the existing owner and the proposed owner of its intent to modify or revoke and rescue the permit.~~

~~Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.~~

~~N. Public access to information. All information pertaining to permit processing or in reference to any source of discharge of any pollutant, shall be available to the public, unless the information has been identified by the applicant as a trade secret, of which the effluent data remain open public information. All information claimed confidential must be identified as such at the time of submission to the board or EPA. Otherwise, all information will be made available to the public. Notwithstanding the foregoing, any supplemental information that the board may obtain from filings made under the Virginia Toxics Substance Information Act (TSIA) shall be subject to the confidentiality requirements of TSIA.~~

~~O. Permit modification. The permit may be modified when any of the following developments occur:~~

~~1. When a change is made in the promulgated standards or regulations on which the permit was based;~~

~~2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Clean Water Act; or~~

~~3. When the level of discharge of or management of a pollutant not limited in the permit exceeds applicable Water Quality Standards or Water Quality Criteria, or the level which can be achieved by technology based treatment requirements appropriate to the permittee.~~

~~P. Permit termination. After public notice and opportunity for a hearing, the general permit may be terminated for cause.~~

~~Q. When an individual permit may be required. The board may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:~~

~~1. The dischargers are significant contributors of pollution;~~

~~2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a General Permit;~~

~~3. The discharge violates the terms or conditions of this permit;~~

~~4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;~~

~~5. Effluent limitation guidelines are promulgated for the point sources covered by this permit; and~~

~~6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.~~

This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.

~~R. When an individual permit may be requested. Any owner or operator operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to an owner or operator the applicability of this general permit to the individual owner or operator is automatically terminated on the effective date of the individual permit. When a general permit is issued which applies to an owner or operator already covered by an individual permit, such owner or operator may request exclusion from the provisions of the general permit and subsequent coverage under an individual permit.~~

~~S. Civil and criminal liability. Except as provided in permit conditions on "bypassing" (Part IV F), and "upset" (Part IV G) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.~~

~~T. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or §§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.~~

~~U. Unauthorized discharge of pollutants. Except in compliance with this permit, it shall be unlawful for any permittee to:~~

~~1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or~~

~~2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.~~

PART II.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.

2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.

3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:

a. The date, exact place, and time of sampling or measurements;

b. The individuals who performed the sampling or measurements;

c. The dates and times analyses were performed;

d. The individuals who performed the analyses;

e. The analytical techniques or methods used; and

f. The results of such analyses.

2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of all reports required by this permit; and records of all data used to complete the registration statement for this permit for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

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2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board, it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after the discovery. A written report of the unauthorized discharge shall be submitted to the department

within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall submit the report to the department in writing within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

I. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health as follows:

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subsection:

a. Any unanticipated bypass; and

b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance including exact dates and times and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Part II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone or by FAX. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans an alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the Act within 120 days of their proposal;

- b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

- c. The alteration or addition results in a significant change in the permittee's sludge use or disposal

practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

- a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

- b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

- c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reports. All reports required by permits, and other information requested by the board shall be signed by a person described in Part II K 1, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Part II K 1;

- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative thus may be either a named

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individual or any individual occupying a named position; and

c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Parts II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private

property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U), and "upset" (Part II V) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and 3.

2. Notice.

a. *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.

b. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

a. *Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:*

(1) *Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;*

(2) *There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and*

(3) *The permittee submitted notices as required under Part II U 2.*

b. *The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed above in Part II U 3 a.*

V. Upset.

1. *An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset and before an action for noncompliance is not a final administrative action subject to judicial review.*

2. *A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs or other relevant evidence that:*

a. *An upset occurred and that the permittee can identify the cause or causes of the upset;*

b. *The permitted facility was at the time being properly operated;*

c. *The permittee submitted notice of the upset as required in Part II I; and*

d. *The permittee complied with any remedial measures required under Part II S.*

3. *In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.*

W. Inspection and entry. The permittee shall allow the director or an authorized representative, upon presentation of credentials and other documents as may be required by law, to:

1. *Enter upon the permittee's premises where a regulated facility or activity is located or conducted or where records must be kept under the conditions of this permit;*

2. *Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;*

3. *Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and*

4. *Sample or monitor at reasonable times, for the purposes of ensuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law any substances or parameters at any location.*

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. *Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.*

2. *As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:*

a. *The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;*

b. *The notice includes a written agreement between the existing and new permittees containing a specific*

Proposed Regulations

date for transfer of permit responsibility, coverage, and liability between them; and

c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.

FORMS

~~Department of Environmental Quality Water Division Permit Application fee.~~

~~Local Government Ordinance Form (eff. 8/93)~~

~~Corrective Action Plan Permit Application for Remedial Action Treatment at Sites with Ground Water and/or Soils Contaminated with Petroleum Products CAP Form 1 (eff. 2/92).~~

~~Corrective Action Plan General Permit Registration Statement for Cleanup of Releases of Petroleum Products from Underground Storage Tank (UST) Systems, (eff. 5/93).~~

~~Initial Abatement Measures Report Checklist.~~

~~Site Characterization Report Checklist.~~

~~Corrective Action Plan Checklist (eff. 11/91).~~

~~CAP General Permit Summary Worksheet (eff. 5/93).~~

~~Instructions for Completing CAP General Permit Summary Worksheet (eff. 5/93).~~

~~Public Notice Verification (eff. 5/93).~~

~~General VPDES Permit Registration Statement for Discharges From Petroleum Contaminated Sites (eff. 9/97).~~

DOCUMENTS INCORPORATED BY REFERENCE

Wisconsin Publication SW-141 (1995).

EPA Method TO-3 (1984).

EPA Method 18 (1992).

EPA Method 1664 (1996).

EPA SW 846 Method 3550 (1986).

EPA SW 846 Method 6010 (1995).

EPA SW 846 Method 7421 (1986).

EPA SW 846 Method 8020 (1986 1992).

EPA SW 846 Method 8260 (1995).

EPA SW 846 Method 8270 (1995).

GENERAL UPDES PERMIT REGISTRATION STATEMENT
FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES

GENERAL UPDES PERMIT REGISTRATION STATEMENT
FOR DISCHARGES FROM PETROLEUM CONTAMINATED SITES
Page 2.

1. Legal Name of Facility _____
2. Location of Facility (Address and Telephone Number):

3. Facility Owner: Last Name _____ First Name _____ M.I. _____
Street _____
City _____ State _____ Zip _____
Phone _____ Room _____ Work _____
6. Nature of the business conducted at the facility: _____
7. Type of petroleum product(s) causing or that caused the contamination: _____
8. Which activities will result in a point source discharge from the petroleum contaminated site? (check all that apply):
 Excavation/Ceawtering
 Bailing/Ground Water Monitoring Wells
 Ground Water Well Development
 Pump Tests to Characterize Site Conditions
 Hydrostatic Tests of Petroleum Storage Tanks or Pipelines
 Pumping Contaminated Ground Water to Remove Petroleum Products from the ground
 Other (Specify): _____
9. Has a site characterization report for this site been submitted to the Department of Environmental Quality? Yes _____ No _____
10. Identify the discharge point and the waterbody into which the discharge will occur: _____
11. How often will the discharge occur (e.g. daily, monthly, continuously)? _____
12. Estimate how long each discharge will last _____ Hours/Days _____
13. Estimate total volume of wastewater to be discharged _____ Gal.
14. Estimate maximum flow rate of the discharge _____ Gal./Day.

9 VAC 25-120-10 et seq.

15. Attach a diagram of the proposed wastewater treatment system identifying the individual treatment units.
16. Attach a topographic or other map which indicates the receiving waterbody name, the discharge point(s), the property boundaries, as well as springs, other surface waterbodies, drinking water wells, and public water supplies which are identified in the public record or are otherwise known to the applicant, within a 1/2 mile radius of the proposed discharge(s).
17. Are central wastewater treatment facilities available to this site? Yes _____ No _____ If yes has the option of discharging to the central facilities been evaluated? What was the result of that evaluation? _____
18. Does this facility currently have a permit issued by the Board? Yes _____ No _____ If yes, please provide permit number: _____
19. Pollution Complaint Number (if applicable) _____
20. Is the material being treated or discharged classified as a hazardous waste under the Virginia Hazardous Waste Regulation, 9 VAC 20-60-10 et seq.? Yes _____ No _____

Certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I do also hereby grant duly authorized agents of the Department of Environmental Quality upon presentation of credentials, permission to enter the property for the purpose of determining the suitability of the general permit.

Signature: _____ Date: _____
 Print Name: _____
 Title: _____
 For Department use only:
 Registration Statement Accepted/Not Accepted by: _____ Date: _____
 Basin: _____ Stream Class: _____ Section: _____
 Special Standards: _____

OVER

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 GAME AND INLAND FISHERIES

REGISTRAR'S NOTICE: The Board of Game and Inland Fisheries is exempt from the Administrative Process Act pursuant to subdivision A 3 of § 9-6.14:4.1 of the Code of Virginia when promulgating regulations regarding the management of wildlife.

Title of Regulation: 4 VAC 15-40-10 et seq. **Game:** In General (amending 4 VAC 15-40-60).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: September 15, 1997.

Summary:

The amendments (i) prohibit the possession of a gun or bow which is not unloaded and cased or dismantled on all national forest lands and on department-owned lands and on other lands managed by the department under cooperative agreement during the closed seasons and (ii) allow the possession and transport of loaded concealed handguns by individuals possessing a concealed handgun permit as defined in § 18.2-308 of the Code of Virginia during the closed seasons on national forest lands and department-owned lands.

Agency Contact: Copies of the regulation may be obtained from Phil Smith, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-40-60. Hunting with dogs or possession of weapons in certain locations during closed season.

A. ~~National forests and department-owned lands. Department-owned lands west of the Blue Ridge Mountains and national forest lands statewide. It shall be unlawful to have in possession a bow or a gun which is not unloaded, and cased or dismantled, in the on all national forests forest lands statewide and on department-owned lands and on other lands managed by the department under cooperative agreement located in counties west of the Blue Ridge Mountains except during the period when it is lawful to take bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, or waterfowl, in all counties west of the Blue Ridge Mountains and on national forest lands east of the Blue Ridge Mountains and migratory game birds in all counties east of the Blue Ridge Mountains. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on the above mentioned lands. The use of firearms and bows in such ranges during the closed season period will be restricted to the area within~~

~~established range boundaries. Such weapons shall be required to be unloaded, cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges shall be restricted to target shooting only and no birds or animals shall be molested on these lands.~~

B. *Department-owned lands east of the Blue Ridge Mountains. It shall be unlawful to have in possession a bow or gun which is not unloaded and cased or dismantled on department-owned lands and on other lands managed by the department under cooperative agreement located in the counties east of the Blue Ridge Mountains except during the period when it is lawful to take bear, deer, grouse, pheasant, quail, rabbit, raccoon, squirrel, turkey, waterfowl or migratory gamebirds on these lands.*

C. Certain counties. Except as otherwise provided in 4 VAC 15-40-70, it shall be unlawful to have either a shotgun or a rifle in one's possession when accompanied by a dog in the daytime in the fields, forests or waters of the counties of Augusta, Clarke, Frederick, Page, Shenandoah and Warren, and in the counties east of the Blue Ridge Mountains, except Patrick, at any time except the periods prescribed by law to hunt game birds and animals.

~~C. Meaning of "possession" of bow or firearm. For the purpose of this section the word "possession" shall include, but not be limited to, having any bow or firearm in or on one's person, vehicle or conveyance.~~

D. *Shooting ranges and authorized activities. The provisions of this section shall not prohibit the conduct of any activities authorized by the board or the establishment and operation of archery and shooting ranges on the lands described in subsections A, B and C of this section. The use of firearms and bows in such ranges during the closed season period will be restricted to the area within the established range boundaries. Such weapons shall be required to be unloaded and cased or dismantled in all areas other than the range boundaries. The use of firearms or bows during the closed hunting period in such ranges shall be restricted to target shooting only and no birds or animals shall be molested.*

~~D. E.~~ E. It shall be unlawful to chase with a dog or train dogs on national forest lands or department-owned lands except during authorized hunting, chase, or training seasons that specifically permit these activities on these lands or during raccoon hound field trials on these lands between September 1 and March 31, both dates inclusive, that are sanctioned by bona fide national kennel clubs and authorized by permits required and issued by the department and the U.S. Forest Service.

~~E. F. It shall be unlawful to possess or transport a loaded gun in or on any vehicle at any time on national forest lands or department-owned lands. For the purpose of this section a "loaded gun" shall be defined as a firearm in which ammunition is chambered or loaded in the magazine or clip, when such magazine or clip is found engaged or partially engaged in a firearm. The definition of a loaded muzzleloading gun will include a gun which is capped or has a charged pan.~~

F. G. The provisions of this section shall not prohibit the possession, transport and use of loaded firearms by employees of the Department of Game and Inland Fisheries while engaged in the performance of their authorized and official duties, nor shall it prohibit possession and transport of loaded concealed handguns where the individual possesses a concealed handgun permit as defined in § 18.2-308 of the Code of Virginia.

H. Meaning of "possession" of bow or firearm and definition of "loaded gun." For the purpose of this section, the word "possession" shall include, but not be limited to, having any bow or firearm in or on one's person, vehicle or conveyance. For the purpose of this section, a "loaded gun" shall be defined as a firearm in which ammunition is chambered or loaded in the magazine or clip when such magazine or clip is found engaged or partially engaged in a firearm. The definition of a loaded muzzleloading gun will include a gun which is capped or has a charged pan.

VA.R. Doc. No. R97-751; Filed August 27, 1997, 11:09 a.m.

Title of Regulation: 4 VAC 15-330-10 et seq. Fish: Trout Fishing (adding 4 VAC 15-330-171) (WITHDRAWN).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

The Board of Game and Inland Fisheries has **WITHDRAWN** 4 VAC 15-330-171 from the final regulation entitled, "4 VAC 15-330-10 et seq. Fish: Trout Fishing," which was published in 13:24 VA.R. 3195 August 18, 1997. The reason for the withdrawal is that 4 VAC 15-330-171 as adopted on July 17, 1997, established a no-creel limit for trout fishing on a certain portion of the Jackson River in conjunction with other changes to trout fishing on this body of water being made through amendments to another section of the trout fishing regulation (4 VAC 15-330-150). Public input received from citizens has led the board to determine that a creel and size limit should be established. On August 21, 1997, the board adopted as final a version of 4 VAC 15-330-171 which does establish a creel and size limit for this body of water in lieu of the no-creel regulation section adopted July 17 and now being withdrawn.

VA.R. Doc. No. R97-750; Filed August 27, 1997, 11:09 a.m.

Title of Regulation: 4 VAC 15-330-10 et seq. Fish: Trout Fishing (adding 4 VAC 15-330-171).

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

Effective Date: October 15, 1997.

Summary:

The amendment establishes a creel limit of four trout per day and a size limit of 12 inches or more in length for taking of trout from that portion of the Jackson River from Gathright Dam downstream to the Westvaco Dam at Covington.

Agency Contact: Copies of the regulation may be obtained from Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 4010 West Broad Street, Richmond, VA 23230, telephone (804) 367-8341.

4 VAC 15-330-171. Special provisions applicable to certain portion of Jackson River.

The daily creel limit shall be [~~(between 4 and 6)~~ four] trout per day and the [minimum] size limit shall be [~~(between 7 and 20)~~ 12] inches [~~or more~~] in length on that portion of the Jackson River from Gathright Dam downstream to the Westvaco Dam at Covington in Alleghany County. All trout caught in [~~these waters~~ this section of the Jackson River] under [~~(between 7 and 20)~~ 12] inches in length shall be immediately returned to the water [~~unharmed~~]. It shall be unlawful for any person to have in his possession any trout under [~~(between 7 and 20)~~ 12] inches in length in this area.

VA.R. Doc. No. R97-753; Filed August 27, 1997, 11:08 a.m.

STATE BOARD OF HEALTH

Title of Regulation: 12 VAC 5-585-10 et seq. Biosolids Use Regulations (amending 12 VAC 5-585-10, 12 VAC 5-585-20, 12 VAC 5-585-30, 12 VAC 5-585-70, 12 VAC 5-585-130, 12 VAC 5-585-140, 12 VAC 5-585-170, 12 VAC 5-585-190, 12 VAC 5-585-200, 12 VAC 5-585-210, 12 VAC 5-585-220, 12 VAC 5-585-240, 12 VAC 5-585-250, 12 VAC 5-585-260, 12 VAC 5-585-280, 12 VAC 5-585-300, 12 VAC 5-585-320, 12 VAC 5-585-340, 12 VAC 5-585-370, 12 VAC 5-585-410, 12 VAC 5-585-420, 12 VAC 5-585-460, 12 VAC 5-585-470, 12 VAC 5-585-490, 12 VAC 5-585-500, 12 VAC 5-585-510, 12 VAC 5-585-520, 12 VAC 5-585-530, 12 VAC 5-585-550, 12 VAC 5-585-560, 12 VAC 5-585-570, 12 VAC 5-585-590, 12 VAC 5-585-610, 12 VAC 5-585-630, and 12 VAC 5-585-640).

Statutory Authority: § 32.1-164.5 of the Code of Virginia.

Effective Date: October 15, 1997.

Summary:

The Biosolids Use Regulations provide the means to protect public health from improper and unregulated disposal of sewage sludge. In response to the concerns

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of one municipality and other interested generators of sewage sludge, certain issues were referred to the Regulations Advisory Committee, a standing committee including representatives of local and state governments and of private interests. The amendments reflect the recommendations of the advisory committee. The amendments also include recommendations from the Virginia Department of Conservation and Recreation concerning nutrient management, site slope limitations, seasonal application restrictions and soil pH limitations on biosolids use.

The amendments were published in the May 12, 1997, issue of the Virginia Register. Three public hearings were held in June 1997. Attendance at the hearings was minimal with one written statement supporting the proposed amendments submitted by the Virginia Association of Municipal Wastewater Agencies (VAMWA). Amendments to the regulations reflect the public comments received since the July 10, 1995, Virginia Register notice. The amended regulations will conform more closely to existing federal requirements (40 CFR Part 503) concerning three trace element concentration values, pathogen control standards and the requirements for reporting on the distribution and marketing of exceptional quality biosolids. Other proposed amendments involve land application rates, monitoring frequency, submission of reports, modifying state permit application forms, and Class III treatment issues.

The site specific requirements contained in the current regulations have been revised to provide for statewide nutrient management initiatives. The amendments will ensure that the level of environmental and public health protection expected by the citizens of the Commonwealth will be provided through the site specific and operational provisions incorporated into applicable permits. Many of the requirements contained in the proposed amendments have been included at the request of local governments and have been supported by sludge management operators throughout the state.

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 C. M. Sawyer, Department of Health, 1500 East Main Street, Room 109, Richmond, VA 23219, telephone (804) 786-1755. There is a charge of \$20 for each copy of this regulation.

12 VAC 5-585-10. Definitions.

A. Unless otherwise specified, for the purpose of these Biosolids Use Regulations, the following words and terms shall have the following meanings unless the context clearly indicates otherwise:

"Biosolids" means a sewage sludge that has received an established treatment for required pathogen control and is treated or managed to reduce vector attraction to a satisfactory level and contains acceptable levels of pollutants, such that it is acceptable for use for land application, marketing or distribution in accordance with ~~these regulations~~ *this chapter*.

"Board" means the State Board of Health.

"Certificate" means a permit issued by the State Water Control Board in accordance with 9 VAC 25-30-10 et seq.

"Commissioner" means the State Health Commissioner.

"Critical areas/waters" means areas/waters in proximity to shellfish waters, a public water supply, recreation or other waters where health or water quality concerns are identified by the Department or the State Water Control Board.

"Conventional design" means the designs for unit operations (treatment system component) or specific equipment that has been in satisfactory operation for a period of one year or more, for which adequate operational information has been submitted to the division to verify that the unit operation or equipment is designed in substantial compliance with ~~these regulations~~ *this chapter*.

"Department" means the State Department of Health.

"Discharge" means (when used without qualification) discharge of pollutant or any addition of any pollutant or combination of pollutants to State waters or waters of the contiguous zone or ocean other than discharge from a vessel or other floating craft when being used as a means of transportation.

"Division" means the Division of Wastewater Engineering of the Office of Water Programs, the administrative unit responsible for implementing [~~these regulations~~ *this chapter*].

"Effluent limitations" means schedules of compliance, prohibitions, permit requirements, established under state or federal law for control of sewage discharges.

"Exceptional quality biosolids" means biosolids that have received an established level of treatment for pathogen control and vector attraction reduction and contain known levels of pollutants, such that they may be marketed or distributed for public use in accordance with ~~these regulations~~ *this chapter*.

"Facilities" means processes, equipment, storage devices and dedicated sites, located or operated separately from a treatment works, utilized for sewage sludge management, including but not limited to, handling, treatment, transport and storage of biosolids.

"Field office" means the Environmental Engineering Field Office of the Office of Water Programs through which the division implements its field operations.

"*Industrial wastes*" means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

"*Land application*" means the distribution of either treated wastewater of acceptable quality, referred to as effluent, or supernatant from biosolids use facilities, or stabilized sewage sludge of acceptable quality, referred to as biosolids, upon, or insertion into, the land with a uniform application rate for the purpose of utilization, assimilation or pollutant removal. Bulk disposal of stabilized sludge in a confined area, such as in landfills, is not land application. Sites approved for land application of biosolids or supernatant in accordance with this chapter are not to be considered to be treatment works.

"*Manual*" and "*manual of practice*" means ~~Part III of the Biosolids Use Regulations~~ the provisions of Part III (12 VAC 5-585-420 et seq.) of this chapter.

"*Operate*" means the act of making a decision on one's own volition (i) to place into or take out of service a unit process or unit processes or (ii) to make or cause adjustments in the operation of a unit process or unit processes at a treatment works.

"*Owner*" means the Commonwealth or any of its political subdivision including sanitary districts, sanitation district commissions and authorities, federal agencies, any individual, any group of individuals acting individually or as a group, or any public or private institution, corporation, company, partnership, firm or association which owns or proposes to own a sewerage system or treatment works.

"*Permit*" means an authorization granted by the commissioner to construct, or operate, facilities and specific sites utilized for biosolids management, including land application, marketing and distribution of biosolids.

"*Pollutant*" means any substance, radioactive material, or waste heat which causes or contributes to, or may cause or contribute to, pollution.

"*Pollution*" means such alteration of the physical, chemical or biological properties of any state waters as will, or is likely to, create a nuisance or render such waters (i) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (ii) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (iii) unsuitable for recreational, commercial, industrial, agricultural or for other reasonable uses; provided that: (a) an alteration of the physical, chemical or biological property of state waters, or a discharge or a deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of, or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (b) the discharge of untreated sewage by any owner into state waters; and (c) contributing to the contravention of standards of water quality duly established by the State Water Control Board are "pollution" for the terms and purposes of this chapter.

"*Primary sludge*" means sewage sludge removed from primary settling tanks that is readily thickened by gravity thickeners.

"*Process*" means a system, or an arrangement of equipment or other devices such that a waste material can be subsequently treated to remove pollutants, including, but not limited to, a treatment works or portions thereof.

"*Settled sewage*" is effluent from a basin in which sewage is held or remains in quiescent conditions for 12 hours or more and the residual sewage sludge is not reintroduced to the effluent following the holding period. Sewage flows not in conformance with these conditions providing settled sewage shall be defined as nonsettled sewage.

"*Sewage*" means the water-carried and nonwater-carried human excrement, kitchen, laundry, shower, bath or lavatory wastes, separately or together with such underground, surface, storm and other water and liquid industrial wastes as may be present from residences, buildings, vehicles, industrial establishments or other places.

"*Sewage sludge*" or "*sludge*" means any solid, semisolid, or liquid residues which contain materials removed from municipal or domestic wastewater during treatment including primary and secondary residues. Other residuals or solid wastes consisting of materials collected and removed by sewage treatment, septage and portable toilet wastes are also included in this definition. Liquid sludge contains less than 15% dry residue by weight. Dewatered sludge contains 15% or more dry residue by weight. The liquid obtained from separation of suspended matter during sludge treatment or storage is referred to as supernatant.

"*Shall*" means a mandatory requirement.

"*Should*" means a recommendation.

"*Sludge management*" means the treatment, handling, transportation, use, distribution or disposal of sewage sludge.

"*State waters*" means all water, on the surface and under the ground, wholly or partially within, or bordering the state or within its jurisdiction.

"*Substantial compliance*" means designs that do not exactly conform to the guidelines set forth in Part III as contained in documents submitted pursuant to 12 VAC 5-585-130 but whose construction will not substantially affect health considerations or performance of the sewerage system or treatment works.

"*Surface waters*" means (i) all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (ii) all interstate waters, including interstate "wetlands"; (iii) all other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetland," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any

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such waters: (a) which are or could be used by interstate or travelers for recreational or other purposes, (b) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce, or (c) which are used or could be used for industrial purposes by industries in interstate commerce; (iv) all impoundments of waters otherwise defined as waters of the United States under this definition; (v) tributaries of waters identified in clauses (i) through (iv) of this definition; (vi) the territorial sea; and (vii) "wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in clauses (i) through (vi) of this definition.

"*Toxic pollutant*" means any agent or material including, but not limited to, those listed under Section 307(a) of the Clean Water Act which after discharge will, on the basis of available information, cause toxicity.

"*Toxicity*" means the inherent potential or capacity of a material to cause adverse effects in a living organism, including acute or chronic effects to aquatic life, detrimental effects on human health or other adverse environmental effects.

"*Treatment works*" means any device or system used in the storage, treatment, disposal or reclamation of sewage or combinations of sewage and industrial wastes, including but not limited to pumping, power and other equipment and their appurtenances, septic tanks and any works, including land, that are or will be (i) an integral part of the treatment process or (ii) used for ultimate disposal of residues or effluents resulting from such treatment. "*Treatment works*" does not include biosolids use on privately owned agricultural land.

"*Use*" means to manage or recycle a processed waste product in a manner so as to derive a measurable benefit as a result of such management.

"*Variance*" means any mechanism or provision which allows a conditional approval based on a waiver of specific regulations to a specific owner relative to a specific situation under documented conditions for a specified time period.

"*Water quality standards*" means the narrative statements for general requirements and numeric limits for specific requirements that describe the water quality necessary to meet and maintain reasonable and beneficial uses. Such standards are established by the State Water Control Board under § 62.1-44.15(3a) of the Code of Virginia.

B. Generally used technical terms not defined in subsection A of this section shall be defined in accordance with "Glossary - Water and Wastewater Control Engineering" published by American Public Health Association (APHA), American Society of Civil Engineers (ASCE), American Water Works Association (AWWA), and Water Pollution Control Federation (WPCF).

12 VAC 5-585-20. Compliance with the Administrative Process Act.

The provisions of the Virginia Administrative Process Act, Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, and Title 32.1 of the Code of Virginia govern the

adoption and enforcement of ~~these regulations~~ *this chapter*. All procedures outlined below are in addition to, or in compliance with, the requirements of that Act.

12 VAC 5-585-30. Powers and procedures of regulations not exclusive.

The board reserves the right to utilize any lawful procedure for the enforcement of ~~these regulations~~ *this chapter*.

12 VAC 5-585-70. Enforcement of regulations.

A. All biosolids use facilities shall be constructed and operated in compliance with the requirements as set forth in ~~these regulations~~ *this chapter*.

B. Notice. Whenever the commissioner has reason to believe that a violation of Title 32.1 of the Code of Virginia or of any of ~~these regulations~~ *provisions of this chapter* has occurred or is occurring, the division shall so notify the alleged violator. Such notice shall be: (i) in writing, with a request to the owner to respond by providing any pertinent information on this issue they may wish; (ii) cite the statute, regulation or regulations that are allegedly being violated; and (iii) state the facts which form the basis for believing that the violation has occurred or is occurring. Such notification is not an official finding or case decision nor an adjudication, but may be accompanied by a request that certain corrective action be taken.

C. Orders. Pursuant to § 32.1-26 of the Code of Virginia, the commissioner may issue orders to require any owner to comply with the provisions of Title 32.1 of the Code of Virginia or ~~these regulations~~ *the provisions of this chapter*. The order may require:

1. The immediate cessation or correction of the violation;
2. The acquisition or use of additional equipment, supplies or personnel to ensure that the violation does not recur;
3. The submission of a plan to prevent future violations;
4. The submission of an application for a variance;
5. Any other corrective action deemed necessary for proper compliance with ~~the regulations~~ *this chapter*, or
6. Evaluation and approval, if appropriate, of the required submissions.

D. Compliance. The commissioner may act as the agent of the board to enforce all effective orders and ~~these regulations~~ *this chapter*. Should any owner fail to comply with any effective order or ~~these regulations~~ *this chapter*, the commissioner may:

1. Institute a proceeding to revoke the owner's permit in accordance with 12 VAC 5-585-220;
2. Request the attorney for the Commonwealth to bring a criminal action;

3. Request the Attorney General to bring an action for civil penalty, injunction, or other appropriate remedy; or
4. Do any combination of the above.

E. Nothing in this section shall prevent the commissioner or the division from taking actions to obtain compliance with permit requirements prior to issuing an order, or from making efforts to obtain voluntary compliance through conference, warning, or other appropriate means.

12 VAC 5-585-130. Permits.

No owner shall cause or allow the construction, expansion, or modification of facilities necessary for biosolids use except in compliance with a written construction permit from the commissioner unless as otherwise provided for by ~~these regulations~~ *this chapter*. Furthermore, no owner shall cause or allow any facilities or land application sites employed for biosolids use to be operated except in compliance with a written operation permit issued by the commissioner which authorizes the operation of the facilities or land application sites unless otherwise provided for by ~~these regulations~~ *this chapter*. Conditions may be imposed on the issuance of any permit, and construction, modification, or operation shall be in compliance with these conditions.

As described in this section, the requirement to formally obtain a construction permit or an operation permit, or both, through the provisions of this chapter is waived for land application sites meeting the operational restrictions specified in subdivision 1 or 2 of 12 VAC 5-585-320, or those sites utilized entirely for research projects with approved monitoring programs.

In order to qualify for a permit waiver for biosolids use, the permittee or owner must file with the division an application or a letter of intent to construct or operate such a system as described above. The letter shall be filed at least 30 days prior to the time that granting of such a waiver would be required to initiate construction or operation. The letter shall contain a brief description of: (i) the proposed use of biosolids, including land application, marketing or distribution; (ii) applicable management practices; (iii) methods for transporting and handling; and (iv) the location of the proposed biosolids use. If after review of the application or letter, a determination is made by the commissioner that it is not in the best interest of public health to waive the permit requirements of ~~these regulations~~ *this chapter*, the owner will be so notified and will be required to obtain the applicable construction or operation permits. The procedure for issuance of a land application operation permit is described in 12 VAC 5-585-200.

12 VAC 5-585-140. Procedure for obtaining a construction or operation permit.

A. Construction or operation permits are issued by the commissioner, but all requests for a construction or operation permit shall be directed initially to the field office which serves the area where the facility or land application sites are located. The procedure for obtaining the permit includes one or more of the following steps: (i) the submission of a permit

application, including the applicable information in ~~Appendix A and B Parts IV (12 VAC 5-585-620 et seq.) and V (12 VAC 5-585-650 et seq.) of this chapter~~ and subsection H of this section; (ii) a preliminary engineering conference; (iii) the establishment of site specific management practices and operation restrictions; (iv) notification of local government and public participation; (v) receipt of comments from all involved agencies as requested by the division; (vi) the submission of final documents including an operation plan, or a sludge management plan. A formal technical evaluation involving a detailed engineering analysis of plans, reports and other design documents submitted in support of a permit application for biosolids use may be required for issuance of a construction permit. A formal technical evaluation may be waived following a review of the permit application or the preliminary engineering proposal, provided that the owner's consultant submits a statement that the design and system operation will meet the requirements established herein.

B. All applications shall be submitted on a form provided by the division and shall be submitted by the owner or authorized agent to the appropriate field office. An application for a construction or operation permit shall be accompanied by notification that local government will issue necessary approvals in accordance with ~~these regulations~~ *this chapter*. An application for a construction permit for facilities will not be considered complete until evidence is submitted that an appropriate certificate (draft permit) has been issued or is not required, by the State Water Control Board in accordance with § 62.1-44.19 of the Code of Virginia. The owner will be notified by the division if a technical evaluation of preliminary or final design documents is required following the preliminary engineering conference, if held. Subsections C through G of this section and 12 VAC 5-585-150 through 12 VAC 5-585-190 would not apply to land application operation permit issuance.

C. A preliminary conference with the appropriate field office engineering staff may be held to establish the requirements for submission of the information necessary for a determination by the commissioner relating to the issuance of a construction permit. The applicant or consultant shall be prepared to set forth any biosolids use problems and the proposed solution in such a manner as to support the conclusions and recommendations presented at this meeting. A preliminary engineering proposal may be submitted prior to, during, or following the preliminary conference.

D. The objective and content of a preliminary engineering proposal are described in this subsection.

1. The objective is to facilitate a determination by the commissioner whether or not the proposed design selected by the owner requires submission of design documents for a formal technical evaluation to establish that the following standards will be reliably met by operation of the facility or system: (i) compliance with requirements established by the State Water Control Board, and (ii) conformance with applicable minimum requirements established by ~~these regulations~~ *this chapter*, in order that a construction permit be issued.

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2. The preliminary engineering proposal when submitted for evaluation shall consist of an engineering report and preliminary plans which shall contain the necessary data to portray the biosolids use problem(s) and solution(s). The requirement for a complete preliminary engineering proposal for small flow or minor projects (generator design flow less than one mgd) can be waived by the division in lieu of a letter from the owner's engineer summarizing the agreements reached at the preliminary engineering conference. For all proposals involving facilities, whether new or upgraded, the engineer shall make an evaluation of the flood potential at the proposed site(s), using available data and sound hydrologic principles. If a flood potential is indicated, the flood plain boundaries shall be delineated on a site map, showing its relation to the proposed facility(ies) and actions proposed to comply with acceptable management practices.

E. Construction plans for facilities for which a technical evaluation is required, shall provide the information necessary to determine that the final plans, specifications and other documents satisfy (i) requirements established by ~~these regulations~~ *this chapter* and the applicable engineering standards of practice and (ii) the minimum requirements and limiting factors established in the owner's approved preliminary engineering proposal.

Plans submitted for technical evaluation of facilities, including substantial modifications (new location of storage on site, or increasing design capacity by more than 20%) from that previously approved shall identify the proposed locations, management practices, biosolids sources, treatment and quality information as required. For new construction, the plan shall include sufficient topographic features to indicate its location relative to streams and other land use facilities, as required. The forms of land use (commercial, residential, and agricultural existing or proposed) buffer zones and access controls, for the near future, surrounding the proposed biosolids use facilities must be indicated. Existing buildings and their type of use within 200 feet of the new site shall be adequately described, e.g., by means of topographic maps, aerial photos, drawings, etc.

Facility closure plans shall address the following information as a minimum:

1. Residual wastewater and sludge treatment, removal and final disposition.
2. Removal of structures, equipment, piping and appurtenances.
3. Site grading and erosion and sediment control.
4. Restoration of site vegetation and access control.
5. Proposed land use (post-closure) of site.

F. Complete technical specifications for the construction of facilities and all appurtenances are to accompany the plans submitted for technical evaluation. The specifications accompanying construction drawings shall include, but not be

limited to, all construction information not shown on the drawings which is necessary to inform the contractor in detail of the design requirement as to the quality of materials and workmanship and fabrication of the facilities. Also, the type, size, strength, operating characteristics and rating of equipment and construction materials shall be identified as necessary, including (i) machinery, pumps, valves, piping, and jointing of pipe, electrical apparatus, and operating tools; (ii) special additive materials such as paper, wood, stone, sand, gravel and combinations of additive materials; (iii) miscellaneous appurtenances utilized; (iv) chemicals required. Specifications shall address instructions for testing materials and equipment as necessary to meet design requirements and standards of practice; and shall describe operating tests for the completed facilities and component units. Specifications shall be submitted to the division in an acceptable number. The title page shall bear the original signature of the appropriately registered professional who prepared the specifications or under whose direct supervision the specifications were prepared.

G. Operation and maintenance manuals prepared for facilities shall be submitted for technical evaluation and approval when requested by the division if requested. Manuals for new construction or revised pages for existing but modified (upgrades) facilities submitted to the division for evaluation will be processed as follows:

1. Copies of the manual shall be submitted to the division in the number specified. An evaluation will not commence until the applicant has submitted all necessary information (see Part IV, *12 VAC 5-585-620 et seq.*).
2. The division will evaluate the technical contents of the manual and will notify the owner (and manual preparer if appropriate) of any necessary revisions to the manual. The owner is responsible for ensuring that the required revisions are made and submitted to the division.
3. The manual contents will be evaluated for compliance with ~~these regulations~~ *this chapter* and the ~~State Water Control Board's~~ *Department of Environmental Quality's* permit regulations and the owner notified of the commissioner's approval or disapproval following receipt of a complete manual.

One copy of the approved manual will be stamped by the division and returned to the owner. If the manual is disapproved, the owner will be notified of conditions, if any, which must be satisfied for approval. The owner will be responsible for ensuring that such conditions are satisfied in accordance with the operation permit.

4. If the commissioner determines that substantial revisions to the manual are required, the division will send a letter to the owner and manual preparer, outlining the necessary revisions and requesting submission of the revised manual within 60 days. Revised manuals constitute a resubmittal.

5. Any deviations from the approved manual affecting the minimum elements required by the operation permit must be approved in accordance with ~~these regulations~~ *this chapter* before any such changes are made.

H. The scope and purpose, requirements, and submission and approval of sludge management plans or operational plans are described in this subsection.

1. The general purpose of these plans is to facilitate a determination by the commissioner that the management or operational plan developed by the owner presents the necessary technical guidance and regulatory requirements to facilitate the proper management of sewage sludge including use of biosolids, for both normal conditions and generally anticipated adverse conditions. The plan should be developed as a reference document, being as brief as possible while presenting the information in a clear, concise and readily accessible manner. The plan should be directed toward the management option(s) for biosolids use selected for the treatment works. The plan shall address methods of controlling and monitoring the quality of sludge by the owner and the means of use of biosolids developed from that sludge by the owner or his agent (Part IV, 12 VAC 5-585-620 *et seq.*).

2. Complete sludge management plans or operational plans shall be submitted for all biosolids use activities, by the owner, or owner's agent except as noted in 12 VAC 5-585-130. The plan shall contain the elements required by applicable sections of this chapter (Part IV, 12 VAC 5-585-620 *et seq.*).

3. Submission and approval of sludge management plans or operational plans involving the land application of biosolids shall be done in accordance with 12 VAC 5-585-150 or 12 VAC 5-585-240, as applicable. Submission and approval procedures for all other plans are as follows:

a. Three copies of the final sludge management plan or operational plan shall be submitted to the appropriate field office. The technical evaluation of the plan will not commence until the applicant has submitted all necessary information.

b. Upon receipt of comments or no response by contacted agencies the division will complete the evaluation of the plan and the commissioner will approve or disapprove the plan as technically adequate.

c. The commissioner will approve the plan if it is determined to be in substantial compliance with Part III (12 VAC 5-585-420 *et seq.*) of ~~the regulations~~ *this chapter* and biosolids use will be in compliance with Part II (12 VAC 5-585-280 *et seq.*) of ~~the regulations~~ *this chapter*. If the commissioner determines that substantial revision to the plan is required, the division shall send a letter to the owner and plan preparer, outlining the necessary revision and requesting

submission of a revised plan within 60 days. A revised plan constitutes a resubmittal.

d. One copy of the approved plan will be stamped by the division and returned to the owner. If the plan is disapproved, the owner will be notified of conditions, if any, which must be satisfied.

12 VAC 5-585-170. Issuance of the construction permit.

Upon approval of the proposed design, including submitted plans and specifications, the commissioner will issue a construction permit to the owner to construct or modify biosolids use facilities in accordance with the approved design and submitted plans, specifications and other design documents (Part V, 12 VAC 5-585-650 *et seq.*).

12 VAC 5-585-190. Information required upon completion of construction.

A. Upon completion of the construction or modification of the biosolids use facilities the owner shall submit to the division a statement signed by an appropriate professional stating that the biosolids use facilities were completed in accordance with the approved plans, specifications and other design documents or revised only in accordance with the provisions of ~~these regulations~~ *this chapter*. This statement is called a Statement of Completion of Construction and shall be based upon inspections of the biosolids use facilities during and after construction or modifications that are adequate to ensure the truth of the statement.

B. The owner shall contact the division and request that a final inspection of the completed construction be made so that either a conditional, or a final, operation permit can be issued, within 30 days after placing a new or modified biosolids use facilities into operation. The division shall be provided with any required performance test results prior to issuance of the final operating permit.

C. A closure plan should be submitted with or prior to the statement of completion of construction in accordance with 12 VAC 5-585-140 D 2.

12 VAC 5-585-200. Issuance of the operation permit; facilities; land application.

A. Upon completion of the department's technical evaluation of the sludge management plan, or operation plan and receipt of a construction completion statement if appropriate, the commissioner may issue a final operation permit (Parts IV and V). However, the commissioner may delay the granting of the final permit pending inspection, or satisfactory evaluation of test results, to ensure that construction work has been satisfactorily completed or that sludge treatment is satisfactory for biosolids use. A conditional operation permit may be issued specifying final approval conditions, with specific time periods, for completion of unfinished work, submission of test results, operations and maintenance manual, sludge management plans, or other appropriate items. The commissioner may issue a conditional operation permit to owners of facilities for which required information, such as the Statement of Completion of

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Construction, has not been received. Such permits will contain appropriate conditions requiring the completion of any unfinished or incomplete work including approval of a closure plan and subsequent submission of the Statement of Completion of Construction.

B. Upon completion of the department's technical evaluation of the sludge management plan, or operation plan and site-specific information on the proposed land application sites, the commissioner may issue final operation permits (Parts IV and V). After a land application operation permit is issued, new land application sites, new biosolids sources and routine storage facilities can be added to the land application operation permit through a permit modification *approved by the division*. A separate land application operation permit will be issued for each political jurisdiction (county or city) where land application is to be undertaken.

12 VAC 5-585-210. Amendment or reissuance of permits.

The commissioner may amend or reissue a permit where there is a change in the approved biosolids management practices, biosolids treatment, or the source of biosolids at the permitted location, or for any other cause incident to the protection of the public health, provided notice is given to the owner, and, if one is required, a hearing held in accordance with the provisions of 12 VAC 5-585-120. Permits issued as described in ~~these regulations~~ *this chapter* will remain valid for a period of five years following issuance unless otherwise provided. Permit holders should request permit reissuance in a letter forwarded to the commissioner approximately 90 days or more prior to the expiration date of the permit.

12 VAC 5-585-220. Revocation or suspension of a permit.

A. The commissioner may suspend or revoke a permit in accordance with the Administrative Process Act.

B. Reasons for revoking permits include:

1. Failure to comply with the conditions of the permit.
2. Violation of Title 32.1 of the Code of Virginia or of any ~~of these regulations~~ *provisions of this chapter* from which no variance or exemption has been granted.
3. Change in ownership.
4. Abandonment of the facilities.
5. Any of the grounds specified in § 32.1-174 of the Code of Virginia.

C. When revoking or suspending permits the commissioner shall:

1. Send a written notice of intent to suspend or revoke by certified mail to the last known address of the permit holder. The notice shall state the reasons for the proposed suspension or revocation of the permit and shall give the time and place of the hearing and the authority under which the commissioner proposes to act.
2. Give at least 30 days advance notice of the hearing.

D. Owners who are given notice of intent to revoke or suspend their permits have a right to a hearing as specified in 12 VAC 5-585-120.

12 VAC 5-585-240. Applications for nondischarging treatment works or sludge management facilities not governed by the sewage handling and disposal regulations.

A. A permit application submitted by an owner or owner's agent shall contain complete information in accordance with this chapter. This information is to be provided by completion and submission of two copies of the appropriate application form(s) and applicable sections of ~~Appendix A Part IV~~ to the appropriate field office. Applications can be obtained from any field office.

B. The operational plan for the facilities must address the special conditions for the technical operational, monitoring, and reporting requirements that the applicant must satisfy. A construction permit and an operation permit shall be obtained in accordance with this chapter for construction of the facilities. Approval of the operational plan constitutes issuance of an operation permit. Operation of the facilities may not proceed until the owner is notified by the division.

12 VAC 5-585-250. Compliance with Part II (Operational Regulations) of the regulations ~~this chapter~~.

Certificates issued by the Department of Environmental Quality under the authority of the State Water Control Board (including approved sludge management plans) prior to January 25, 1995, shall continue in force until expired, reissued, amended, or terminated in accordance with the certificate or this chapter. All owners holding Virginia Pollution Abatement Permits as of January 25, 1995, shall submit an application for an operation permit in accordance with ~~these regulations~~ *this chapter* within 180 days before the date of expiration of certificates issued prior to January 25, 1995, or at the time of any modification request submitted after January 25, 1995, or within 180 days of adoption of this chapter, whichever is later. All owners of biosolids use facilities shall comply with the applicable requirements set forth in the operational regulations except as provided in accordance with 12 VAC 5-585-130. Any owner may request technical assistance from the division to implement corrective action.

12 VAC 5-585-260. Compliance with Part III (Manual of Practice) of the regulations ~~this chapter~~.

The design guidelines set forth in Part III of this chapter specify minimum standards for biosolids use for land application, marketing and distribution, including biosolids quality and site specific management practices. Compliance with Part III of this chapter will not be required for facilities not including land application, distribution, or marketing, which have received the approval of the commissioner and the State Water Control Board and for which operation has commenced as of January 25, 1995. Such operation of facilities is deemed to be commenced upon approval of a complete application for a permit or certificate. However, the

commissioner may impose standards and requirements which are more stringent than those contained in Part III of this chapter when required to protect public health or prevent nuisance conditions from developing either within critical areas, or when special conditions develop prior to or during biosolids use operations. Conformance to local land use zoning and planning should be resolved between the local government and the facility owner or permit holder. Applications submitted for facilities must demonstrate that the facility and biosolids use management practices will adequately safeguard public health and will comply with the certificate and permit requirements, as appropriate. Submissions which are in substantial compliance with Part III of this chapter and comply with any additional requirements as noted above will be approved. Justification for biosolid use proposals may be required for those portions of the submitted proposal which differ from these criteria. The owner or owner's agent shall identify and justify noncompliance with specific standards or "shall" criteria which the division identifies, or the applicant, in his judgment, believes to be substantial in nature. The division may request changes in designs which are not in substantial compliance with Part III of this chapter and which are not adequately justified by the applicant. The fact that significant work was accomplished on a specific permit application prior to adoption of this chapter shall be a consideration when evaluating applications.

12 VAC 5-585-280. Minimum biosolids sampling and testing program.

A. Sampling and testing methods shall conform to current United States Environmental Protection Agency (EPA) guidelines establishing test procedures for analysis of pollutants or other EPA approved methods.

B. Either the operation and maintenance manual, sludge management plan, or operational plan shall contain a specific testing schedule. The testing schedule shall include minimum tests and their frequencies as required to monitor the facility in accordance with the appropriate certificate and the operating permit issued under ~~these regulations~~ *this chapter*.

C. The following sampling instructions shall be followed when collecting samples as required by ~~these regulations~~ *this chapter*.

1. Raw sewage or sludge samples are to be collected prior to the treatment process unit operations.
2. Final treated samples are to be taken at a point following appropriate unit operations in the treatment process. An evaluation of biosolids treatment may require monitoring of fecal coliform levels in the treated sludge.
3. Compositing of samples shall be in accordance with the treatment works operation and maintenance manual. Composite samples of sludge shall consist of grab samples taken [~~at the specified minimum frequency and should be combined in proportion to flow~~ *in accordance*

with either the operation and maintenance manual or operation plan, as appropriate. Composite samples shall be representative of the quality and quantity of the biosolids used]. Greater frequency of grab sampling may be desirable where abnormal variation in waste strength occurs. Automatic [flow] proportional samplers are considered a valid sampling method.

12 VAC 5-585-300. Records.

The owner shall maintain records on the biosolids use operation and laboratory testing. The records shall be available for review by division and field office staff during inspections at reasonable times. Any records of monitoring activities and results shall include at least the following for all samples:

1. The date, place and time of sampling or measurements;
2. Individual who performed the process sampling or measurements;
3. The date analysis was performed;
4. Individual that performed laboratory analysis;
5. The analytical techniques/methods used; and
6. The results of such analysis.

The owner shall normally maintain monitoring records for a minimum of ~~three~~ *five* years. This period of retention may be extended during the course of any unresolved litigation regarding the discharge of pollutants at the request of the commissioner.

Monitoring records may include: (i) process control adjustments and results; (ii) all printed charts and graphic recordings for continuous monitoring; (iii) appropriate instrumentation, calibration and maintenance records.

12 VAC 5-585-320. Additional monitoring, reporting and recording requirements for sewage sludge and residual solids management.

Either the Operation and Maintenance Manual, sludge management plan, or operational plan shall contain a schedule of required minimum tests and their frequency to be conducted for the sewage sludge and biosolids management system and shall also contain necessary *information* to document sewage sludge and biosolids quality. Such test schedule information should include instructions for recording and reporting. Monitoring, reporting and recording requirements for sewage sludge and biosolids quality control shall be in accordance with the sludge management plan, or operation plan in accordance with 12 VAC 5-585-140 H. The record keeping and reporting requirements for sewage sludge and biosolids management contained in the treatment works Operation and Maintenance Manual shall apply to all application sites, regardless of size or frequency of application. However, the requirements relative to monitoring, reporting and recording of site specific soils and monitoring, reporting and recording of ground water and

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surface water are not applicable for any site which meets either of the following criteria:

1. Whenever exceptional quality biosolids are marketed and distributed with a label or identification information which specifies proper quality information and describes how agronomic rates are to be determined. Also, whenever Class I treated biosolids are land applied so that: (i) the annual loading rate will not result in annual maximum loading rates in excess of those specified in Table 9; (ii) applied biosolids will meet vector attraction requirements; (iii) the amount of nutrients applied does not exceed the total crop needs or agronomic loading rate; (iv) no additional biosolids are applied for at least five years, or the biosolids are applied to land maintained only as pasture or hay land for five years following the last application of biosolids and the nutrient loading rate does not exceed 70% of the annual total crop needs of the grass or hay cover (Tables A-2 and 11).

2. Whenever the application site area for biosolids processed by Class I or II treatment is no larger than 10 acres and is isolated (2,000 feet or more separation distance) from other sites receiving applications of biosolids within three years of the time biosolids are applied to the identified site and the necessary vector attraction requirements are met.

The division may recommend that specified site specific monitoring be performed by the holder of the permit for any biosolids land application practice, regardless of frequency of application or size of the application area. Such recommendations will occur in situations in which groundwater contamination, surface runoff, soil toxicity, health hazards or nuisance conditions are identified as an existing problem or documented as a potential problem as a result of biosolids use operations. Article 2 (12 VAC 5-585-460 *et seq.*) of Part III of these regulations this chapter shall apply in full whether or not a monitoring waiver provision is applicable.

12 VAC 5-585-340. Contents.

The manual shall contain the testing and reporting elements required by these regulations this chapter. In addition, for information and guidance purposes, the manual should contain additional schedules which supplement these required schedules.

12 VAC 5-585-370. Biosolids monitoring/reporting.

~~A. Monitoring and reporting procedures shall be specified in each sludge management plan or operation plan. For land application or biosolids use on agricultural or nonagricultural sites, sludge composition analysis to document biosolids quality should be performed as required for permit compliance under the following guidelines:~~

TABLE 1

Estimated _____ Maximum Dry
Size of Facility _____ Tons/Year _____ Frequency

less than .5 MGD	200	once per year
greater than 0.5 to less than 3.0 MGD	1400	four per year
greater than 3.0 to less than 10.0 MGD	7000	six per year
greater than 10.0 MGD	greater than 7000	12 per year

~~Note: Sampling/testing events should be conducted at approximately equal intervals. After two years of testing at the listed frequencies, the testing frequency may be reduced annually by one half to a minimum of once annually.~~

A. Monitoring biosolids quality shall be performed as required for permit compliance. Monitoring frequency shall be sufficient to both reflect the degree of variability, if any, expected in the biosolids quality and the frequency of application. The following guidelines should provide sufficient data for characterizing the quality of biosolids for biosolids programs that land apply continuously throughout the year.

TABLE 1

Amount of biosolids ⁽¹⁾ (metric tons per 365-day period)	Frequency
Greater than zero but less than 290.	Once per year.
Equal to or greater than 290 but less than 1,500.	Once per quarter (four times per year).
Equal to or greater than 1,500 but less than 15,000.	Once per 60 days (six times per year).
Equal to or greater than 15,000.	Once per month (12 times per year).

⁽¹⁾Either the amount of bulk sewage applied to the land or the amount of sewage sludge received by a person who prepares sewage sludge that is sold or given away in a bag or other container for application to the land (dry weight basis).

Note: Sampling shall be conducted at approximately equal intervals at the listed frequencies. Biosolids programs which store biosolids and land apply only during discrete events, throughout the year, shall schedule sampling events to coincide with application periods. The regulatory agency may require increased monitoring frequencies, if necessary, to adequately define any significant variability in biosolids quality. After two years of monitoring the permittee may request that the monitoring frequency be reduced, but in no case to less than once per year in any year that biosolids are applied to land.

B. An activity report shall be submitted (postmarked) to the department, by the 15th day of the month following any month in which land application occurs. The report shall indicate those sites where land application activities took place during the previous month.

B- C. Biosolids application rates should be based on the annual average sludge quality. The average sludge quality should be established from the results of approved analytical testing of composite samples obtained during the most recent 12 months of monitoring. For proposed treatment works rates may be initially based on the biosolids characteristic produced by similar generating facilities.

C- D. The required treatment and quality characteristics and the maximum allowable land application loading rates shall be established for biosolids use. In addition, *operational* monitoring results shall verify that required sludge treatment has achieved the specified levels of pathogen control and vector attraction reductions (Table 3). Adequate records on sludge composition, treatment classification, sludge application rates and methods of application for each site shall be maintained by the generator and owner. Table 4 shows a sample operating report for documenting the minimum required information. ~~Unless otherwise provided, a report summary shall be submitted monthly to the division and shall be postmarked by the 15th day of the month or earlier. Reporting shall be yearly (postmarked by February 19 for the preceding calendar year) unless otherwise required.~~ The generator and owner shall maintain the records as necessary for a minimum period of five years, until further notification by the department. Sites receiving frequent applications of sludge which meet or exceed maximum cumulative constituent loadings and dedicated disposal sites should be properly referenced for future land transactions (see the sample Sludge Disposal Site Dedication Form - Table A-3).

12 VAC 5-585-410. Groundwater monitoring and reporting.

A. Monitoring wells may be required by the commissioner as recommended by the division for land treatment sites, sludge lagoons, or sludge holding facilities to monitor groundwater quality. The wells should be designed and located to meet specific geologic and hydrologic conditions at each site. Existing wells or springs may be approved for use as monitoring wells if they can be shown to provide a representative sample of groundwater conditions. The monitoring well should be constructed so as to sample the most shallow occurrence of groundwater that can reliably be obtained. The wells must be deep enough to penetrate the water table, and the screened interval must be in the saturated zone. The well construction should include PVC casing and screen with a bottom end plug or cap. The casing joints should be of the threaded, split ring or some other type which does not require adhesive. The screened interval should be backfilled with washed porous media (sand/gravel) and a bentonite or other impermeable seal placed at least two feet above the screen. The remainder of the well may be backfilled with clean native materials. A concrete surface seal should slope away from the well. Locking caps are recommended. Upon well completion, a driller's log shall be submitted to the department.

B. Sampling procedures must assure maintenance of sample integrity. Samples should be collected in clean

sample containers and with an uncontaminated sampling device. In order to obtain a representative sample, standing water in the well must be evacuated prior to sampling. At a minimum, at least three times the volume of water standing in the borehole should be removed prior to taking a sample for analysis to assure movement of formation water into the well and eliminate false readings that would be obtained from water that has stratified in the well. Samples may be obtained by pumping, bailing or pressure methods (e.g., Bar Cad samplers). The state does not endorse any one particular method or manufacturer, but each method has advantages and disadvantages which must be considered prior to final selection. Sampling methodology should be submitted for initial review. To obtain sufficient background groundwater quality data, three to six monthly samples should be collected from each observation well prior to placing the land application site or other facility into operation. Sampling should account for seasonal groundwater table fluctuations. Groundwater samples shall be collected and analyzed on a quarterly basis during operation of the site or facility. Table 6 lists typical parameters for groundwater monitoring. Additional test parameters may be required on a case-by-case basis.

C. Sample analysis and preservation techniques should be in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater.

TABLE 2
PARAMETERS FOR BIOSOLIDS ANALYSIS^{4, (1)}

- A. Suggested Minimum
 - Source of Sludge
 - Type of Sludge (Lime Stabilized, Aerobically Digested, etc.)
 - Percent Solids (%)
 - Volatile Solids (%)
 - pH (Standard Units)
 - Total Kjeldahl Nitrogen (%)
 - Ammonia Nitrogen (%)
 - Nitrates (mg/kg)
 - Total Phosphorus (%)
 - Total Potassium (%)
 - Alkalinity as CaCO₃ (mg/kg)^{2, (2)}
 - Arsenic (mg/kg)
 - Cadmium (mg/kg)
 - Chromium (mg/kg)
 - Copper (mg/kg)
 - Lead (mg/kg)
 - Mercury (mg/kg)
 - Molybdenum (mg/kg)
 - Nickel (mg/kg)
 - Selenium (mg/kg)
 - Zinc (mg/kg)

¹ Values reported on a dry weight basis unless indicated.

² Lime treated sludges (10% or more lime by dry wt.) should be analyzed for percent CaCO₃.

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B. Additional parameters such as the organic chemicals listed in Table 13 may be required for screening purposes as well as: Aluminum (mg/kg), Water Soluble Boron (mg/kg), Calcium (mg/kg), Chlorides (mg/l), Manganese (mg/kg), Sulfates (mg/kg), and those pollutants for which removal credits are granted.

C. Microbiological testing may be necessary to document the sludge treatment classification (Table 3). Microbiological standards shall be verified by the log mean of the analytical results from testing of nine or more samples of the sludge source. Sampling events shall be separated by an appropriate period of time so as to be representative of the random and cyclic variations in sewage characteristics.

⁽¹⁾ Values reported on a dry weight basis unless indicated.

⁽²⁾ Lime treated sludges (10% or more lime by dry weight) should be analyzed for percent CaCO₃.

TABLE 3
STANDARDS FOR DOCUMENTATION OF PATHOGEN
CONTROL AND VECTOR ATTRACTION REDUCTION
LEVELS FOR BIOSOLIDS

A. Pathogen Control Standards (Dry Weight of Sludge Solids Basis)

1. Class I Treatment for Class A Pathogen Control

a. [⁽¹⁾] Composting or other acceptable time-temperature treatment² [⁽⁴⁾] shall result in a biosolids content equal to or less than [either] 1,000 fecal coliform per gram [or three salmonella per four grams] of total solids in treated sludge prior to removal for use or preparation for distribution.

b. Stabilization** [shall result in ⁽²⁾ . Verify] a biosolids content less than either: 1,000 MPN fecal coliform per gram of total solids, or three salmonella, or one virus (PFU), or one helminth egg, per four grams of total sludge solids and vector attraction reduction requirements will be met upon use.

2. Class II Treatment for Class B Pathogen Control.

a. [⁽¹⁾] When the influent sludge stream to the stabilization unit operation contains more than 6 log₁₀ or more of fecal coliform per gram of total solids, a reduction of $\geq 1.5 \log_{10}$ of fecal coliform or more may be required for stabilization or the treated sludge shall not contain more than 6.0 log₁₀ of fecal coliform per gram of total solids.

b. Stabilization* 6.0 [⁽⁴⁾ shall result in ⁽²⁾ . Verify] biosolids [with a content] maximum of 6.3 log₁₀ of fecal coliform per gram [or 3 salmonella per 4 grams] of total solids in sludges subjected to adequate treatment and [provide that] vector attraction reduction requirements will be met upon use.

3. Class III Treatment for Class B Pathogen Control.

a. When the influent sludge stream to the stabilization unit operation contains 6 log₁₀ or more of fecal

~~coliform per gram of total solids, a reduction of 1.5 log₁₀ fecal coliform or more may be required for stabilization.~~

~~b. Stabilization* 6.3 log₁₀ of fecal coliform per gram total solids in sludges subjected to adequate treatment.~~

B. Vector attraction reduction requirements (must satisfy one of the following for approval of land application of biosolids).

1. Thirty-eight percent volatile solids (VS) reduction by digestion processes, or:

a. Less than 38% reduction by anaerobic digestion if additional treatment (additional 40 days or more at 32°C or more) results in less than 17% additional VS reduction:

$$\text{Additional VS Reduction} = \frac{[\text{VSD1} - \text{VSD2}]}{[\text{VSD1} - (\text{VSD1})(\text{VSD2})]}$$

D1 = Initial Conventional Digestion Period

D2 = Additional 40 day digestion period

b. Less than 38% reduction by aerobic digestion if the specific oxygen uptake rate (SOUR) of sludge is 1.5 or less milligrams of oxygen per hour per gram of total sludge solids (dry weight basis) at a temperature of 20°C.

c. Less than 38% reduction by aerobic digestion if additional treatment (additional 30 days or more at 20°C or more) results in less than 15% additional VS reduction.

d. Less than 38% reduction if treated in an adequately aerated unit operation for 14 days or more at a temperature exceeding 40°C and the average sludge temperature exceeds 45°C.

2. Sludge pH is 12 or more (alkaline addition) for two consecutive hours and remains at 11.5 or higher for 22 additional hours (no further alkaline additions), or

3. Seventy-five percent or more total solids in treated sludge if no untreated primary sludge is included, or 90% total solids if unstabilized primary sludge is included, prior to any mixing with other materials, or

4. Either incorporation of treated sludge into the soil within six hours of surface application, or direct injection below the surface of the land so that no evidence of any significant amounts of sludge is present on the land surface within one hour of injection.

5. For land application of biosolids receiving Class I treatment:

a. For surface application: apply to land within eight hours of final treatment and incorporate below the surface within six hours of application, or achieve one of the appropriate vector attraction reduction requirements by treatment.

b. For subsurface application: inject within eight hours of final treatment or achieve one of the appropriate vector attraction reduction requirements by treatment.

C. Documentation statement for submission of treatment, or quality, verification reports:

I have submitted the proper documentation to verify that the necessary levels of pathogen reduction and vector attraction reduction have been achieved for all sludge to be land applied in accordance with the permit requirements. These determinations have been made under my direction and supervision in accordance with

approved procedures developed to ensure that qualified personnel obtain and evaluate the information necessary to ensure permit compliance. Also, the sludge quality characteristics are suitable for Land Application in accordance with permit requirements (if appropriate).

Signed by Responsible Person Date

(Title if appropriate) in charge

Note: * ⁽¹⁾ Refers to an acceptable method of treatment with established operational controls capable of treating sludge to produce the required microbiological standards (see Article 3 (12 VAC 5-585-540 et seq.) of Part III, Agricultural Use of Biosolids).

** ⁽²⁾ Refers to testing standards.

TABLE 4
Example of Report for Submission to Field Offices
FIELD REPORT

PROJECT/PERMITTEE: _____	PERMIT NO./FIELD NO: _____
(LAND OWNER/FARMER:) _____	FIELD ACRES: _____
APPLICATION MODE: _____	DATE AS OF: _____
GALLONS, WET TONS OR CUBIC YARDS APPLIED: _____	Month to Date _____ Year to Date _____
DRY TONS/ACRE APPLIED: _____	Month to Date _____ Year to Date _____
CROP/YIELD _____	Lifetime to Date _____
	SOIL pH _____
	LBS. APPLIED/ACRE

SLUDGE PARAMETER	MONTH TO DATE	YEAR TO DATE	LIFETIME TO DATE
P.A.N.			N/A
CaCO ₃			N/A
P.			N/A
K			N/A
As			
Cd			
Cr			
Cu			
Mo			
Ni			
Pb			
Se			
Zn			
Other:			

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DAILY LOADING FIELD SHEET

DATE	SOLIDS	GALLONS, WET TONS OR CUBIC YARDS	DRY TONS
TOTALS			

(If nuisance problems of odors or problems with uniform applications develop, the appropriate regional offices of the State Water Control Board and the Engineering Field Offices of the Virginia Department of Health shall be notified.)

Upon such notification, were any operational changes made? Yes* No

*Specify the methods utilized to comply with treatment/application requirements a separate attachment.

TABLE 5
RECOMMENDED SOIL TEST PARAMETERS FOR LAND APPLICATION SITE SITES ⁽¹⁾

	SLUDGE BIOSOLIDS APPLICATION			STORAGE
	Infrequent ⁽²⁾	Frequent Below Agronomic Rates ⁽³⁾ ⁽²⁾	Frequent at Agronomic Rates ⁽⁴⁾ ⁽²⁾ ⁽³⁾	Wastewater ⁽⁵⁾ Supernatant ⁽⁴⁾
Soil Organic Matter (%)		*	*	
Soil pH (Std. Units)	*	*	*	*
Cation Exchange Capacity (me/100g)	*	*	*	
Total Nitrogen (ppm)		*	*	
Organic Nitrogen (ppm)		*	*	
Ammonia Nitrogen (ppm)		*	*	
Available Phosphorous (ppm)	*	*	*	*
Exchangeable Potassium (ppm)	*	*	*	
Exchangeable Sodium (mg/100g)		*	*	
Exchangeable Calcium (mg/100g)		*	*	
Exchangeable Magnesium - (mg/100g)	*	*	*	
Copper (ppm)		*	*	
Nickel (ppm)		*	*	
Zinc (ppm)		*	*	
Cadmium (ppm)		*	*	
Lead (ppm)		*	*	
Chromium (ppm)		*	*	
Manganese (ppm)		*	*	
Molybdenum		*	*	
Selenium		*	*	
Particle Size Analysis or USDA Textural Estimate (%)		*	*	
Hydraulic Conductivity (in/hr)			*	

Note - ⁽¹⁾ Unless otherwise stated, analyses shall be reported on a dry weight basis(*).

⁽²⁾ Initial testing before application and repeated before Biosolids are again applied at the agronomic rate, after three (3) or more years.

⁽³⁾ Total sludge application (loading) rate contains less than 70% of the annual agronomic plant available nitrogen (PAN) requirements and testing initially and repeated before Biosolids are applied to support the next cropping cycle.

~~(4) Annual agronomic loading rate testing initially and annually with general testing requirements to be adjusted in accordance with prior analytical test results. Heavy metal analyses are not required but once every three (3) years before application.~~

~~(2) See 12 VAC 5-585-510 A 3.~~

~~(3) Testing requirements to be adjusted in accordance with prior analytical test results. Heavy metal analyses are not required but once every three years before application.~~

~~(6) Supernatant (4) Liquid biosolids derived from storage and handling biosolids use facilities.~~

TABLE 6
SUGGESTED GROUNDWATER MONITORING
PARAMETERS AND MONITORING FREQUENCY

Annual Monitoring	Quarterly Monitoring
Total Kjeldahl Nitrogen	Nitrate Nitrogen
Ammonia Nitrogen	pH
Phosphorus	Conductivity
Sodium	Chlorides
Boron Static	Water Level
Copper	
Lead	
Nickel	
Cadmium	
Chromium	
Zinc	
Hardness	
Alkalinity	
COD (TOC)	
Pathogen Indicator Organism	

12 VAC 5-585-420. Sludge stabilization.

A. The selection and operation of the stabilization process shall be based on the ultimate utilization of the final sludge product. The design information concerning sludge stabilization processes included in this section is provided to update similar requirements contained in the Sewerage Regulations (12 VAC 5-580-10 et seq.). Such design information is based on the assumption that each unit operation is the sole stabilization process employed at the treatment works. This design information is presented to define the conventional design standards for the level of sludge treatment necessary for biosolids use. Consideration will be given to nonconventional designs, on a case-by-case basis, for treatment works employing new technology or series operation of two or more stabilization processes or methods. *The standard buffer distance of 200 feet shall be provided between the walls of [~~enclosed~~ open and exposed] sludge treatment operations and the boundaries of the site area in which either controlled use or access restrictions apply.*

B. Anaerobic digestion.

1. General. Conventional sludge treatment consists of two anaerobic digesters, or enclosed reactors, typically provided, so that each digester may be used as a first stage or primary reactor. Additional digesters are provided to treat the total flow of primary and secondary sludge generated at treatment works with sewage design flows exceeding one MGD. Where multiple digesters are

not provided, it is prudent to provide a lagoon or storage basin for emergency use to allow the digester to be taken out of service without unduly interrupting treatment works operation. Each digester should have the means for transferring a portion of its contents to other digesters. Multiple digester facilities should have means of returning supernatant from the settling digester unit to appropriate points for treatment. Provisions for side-stream treatment of supernatant should be addressed when the supernatant load is not included in the treatment works design.

2. Sludge inlets and outlets. Multiple sludge inlets and draw-offs and multiple recirculation section and discharge points (minimum of three) to facilitate flexible operation and effective mixing of the digester contents provide optimum treatment for pathogen control and vector attraction reduction. One inlet usually discharges above the liquid level and is approximately at the center of the digester to assist in scum breakup. Raw sludge inlet discharge points should be so located as to minimize short circuiting to the supernatant draw-off.

3. Digester capacity. Where the composition of the sewage has been established, digester capacity is conventionally computed from the volume and character of the sludge mixture to be digested. The total digestion volume can be determined by rational calculations based upon such factors as volume of sludge added, its percentage of solids and character, the temperature to be maintained in the digesters, the degree or extent of mixing to be obtained and the size of the installation with appropriate allowance for sludge and supernatant storage. Such detailed calculations justify the basis of design. The digester should be capable of maintaining a minimum average sludge digestion temperature of 35°C (95°F) with the capability of maintaining temperature control within a 4°C [(±)] range. The design average detention time for sludge undergoing digestion for stabilization is conventionally a minimum of 15 days within the primary digester, but longer periods may be required to achieve the necessary level of pathogen control and vector attraction reduction necessary for the method used for sludge management. If unheated digesters are utilized, the conventional capacity would provide a minimum detention time of 60 days within the digestion volume in which sludge is maintained at a temperature of at least 20°C (68°F).

a. Completely mixed systems. For digesters providing for intimate and effective mixing of the digestion volume contents, the systems are typically

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designed for an average feed loading rate of less than 200 pounds of volatile solids per 1,000 cubic feet of volume per day in the active digestion volume.

Confined mixing systems, where gas or sludge flows are directed through vertical channels, mechanical stirring or pumping systems and unconfined continuously discharging gas mixing systems are conventionally designed to ensure complete tank turnover every 30 minutes. For tanks over 60 feet in diameter, multiple mixing devices shall be used.

Unconfined, sequentially discharging gas mixing systems are typically designed using the number of discharge points and gas flow rates shown for the various tank diameters listed in Table 7, unless sufficient operating data has been developed to verify the performance reliability of alternative designs. Gas

discharge lines (lances) mounted on a floating cover or top designed to accumulate gas emissions usually extend to the base of the vertical side wall while the cover is resting on its landing brackets. For floor mounted diffuser boxes or lances mounted to a fixed cover, gas discharge are located at the base of the vertical side wall.

The minimum gas flow supplied for complete mixing shall be 15 cubic feet/min./1,000 cubic feet of digestion volume. Flow measuring devices and throttling valves are used to provide the minimum gas flow.

The design power supplied for mechanical stirring or pumping type complete mixing systems typically exceeds 0.5 horsepower per 1,000 cubic feet of digestion volume.

TABLE 7: DESIGN CRITERIA FOR MULTIPLE DISCHARGE MIXING SYSTEMS, SEQUENTIAL DISCHARGE

Tank Diameter	20-30	31-40	41-50	51-60	61-70	71-80	81-90	91-100	101-110
Maximum Diameter (Ft.)									
Discharge Points (Minimum Number of Points)	4	5	6	7	8	9	10	11	12
Gas Flow (CFM) (Minimum Gas Flow)	95	95	95	150	150	150	200	250	300

b. Moderately mixed systems. For digestion systems where mixing is accomplished only by circulating sludge through an external heat exchanger, the system is normally loaded at less than 40 pounds of volatile solids per 1,000 cubic feet of volume per day in the active digestion volume. The design volatile solids loading should be established in accordance with the degree of mixing provided. Where mixing is accomplished by other methods, loading rates are determined on the basis of information furnished by the design engineer. Where low speed mechanical mixing devices are specified, more than one device is used unless other mixing devices are also provided.

C. Aerobic sludge digestion.

1. Mixing. Aerobic sludge digestion reactors are conventionally designed for effective mixing and aeration. When aeration diffusers are used, they are normally of the type which minimizes clogging, and they should be designed to permit removal for inspection, maintenance and replacement without dewatering the tanks.

2. Multiple design. Multiple aerobic digesters are conventionally provided at treatment works having a design flow capacity of more than 0.5 MGD. The size and number of aerobic sludge digesters can be determined by rational calculations based upon such factors as of volume of sludge added, its percent solids and character, the required volatile solids reduction for stabilization, allowance for sludge and supernatant

storage, and the minimum temperature of the digester contents. The capacity calculations usually include design digester temperature based on the type of mixing equipment and other factors. The following conventional design information will establish the minimum design capacities for provision of pathogen control and vector attraction reduction treatment by aerobic digestion facilities:

a. Hydraulic detention time. Digester volume may exceed 20% of the average design flow of the treatment works. The design digester volume can be increased up to 25% of the average design flow if the wastewater temperature will remain below 10°C (50°F) for an extensive period of time (60 days/year). The volatile solids loadings are typically in the range of one to two tenths (0.1 to 0.2) pounds of volatile solids per cubic foot per day. A reduction in conventional aerobic digester hydraulic detention time may be provided for treatment works designed to be operated in the extended aeration mode or coupled with additional stabilization processes.

b. Mixing energy. Energy input requirements for mixing should be in the range of 0.5 to 1.5 horsepower per 1,000 cubic feet, where mechanical aerators are utilized, and 20 to 30 standard cubic feet per minute per 1,000 cubic feet of aeration tank, where air mixing is utilized.

D. Sludge composting.

1. General design. Conventionally designed compost facilities receive treated dewatered sludge to be mixed with a bulking agent prior to composting. The conventional mixing operation should have sufficient capacity to properly process the peak daily waste input with the largest mixer out of operation. Volumetric throughput values used to establish necessary mixing capacity are typically based on the material volume resulting from the sludge to bulking agent ratio, or are estimated from previous experience or pilot scale tests.

The ability of all selected equipment to produce a compostible mix from sludge of an established moisture content, residual material and the selected bulking agent can be established from previous experience or pilot tests.

Except for windrow composting wherein mobile mixers are used, an area with sufficient space to mix the bulking agent and sludge or residuals and store half of the daily peak input should be provided. The mixing area is usually covered to prevent ambient precipitation from directly contacting the mix materials.

Where conveyors are used to move the compost mix to the composting area and or help provide mixing, sufficient capacity for handling of the mix with one conveyor out of operation is normally provided, or a backup method of handling or storing is available. Site runoff is typically directed to a storage or treatment facility. Capacity of the drainage system may provide for the 24-hour rainfall a peak rate expected once in 10 years.

2. Windrow method. The windrow composting site area requirements are conventionally based on the average daily compost mix inputs, a minimum detention time of 30 days on the compost pad, and the area required for operation of the mixing equipment. Sufficient compost mix handling equipment is usually provided to turn the windrows daily.

3. Aerated-static pile. The size of a conventional static pile compost area is based on the average daily compost mix inputs, along with storing base and cover material. The area size should provide for a composting time of 21 days, unless the applicant, through previous experience or pilot scale studies establishes that less time is necessary to achieve the pathogen control and vector attraction requirements. A biosolids compost mix should be configured to provide adequate aeration of the mix using either positive or negative pressure for air flow through the piles. In addition, site area space is provided to allow loader movement between daily pile sections and for access roads.

Sufficient aeration blower capacity is typically provided to deliver the necessary air flow through the static pile compost mix, but the delivered air flow usually exceeds an aeration rate of 500 cubic feet per hour per dry ton

(CFH/DT). Where centralized aeration is utilized, multiple blower units are provided and arranged so that the design air requirement can be met with the largest single unit out of service. Where individual blowers are used, sufficient numbers of extra blowers are provided so that the design air requirement can be met if 10% or more of the blower capacity is unavailable. For facilities which are not continuously manned, the blower units may be equipped with automatic reset and restart mechanisms or alarmed to a continuously manned station, so that they can quickly be placed back into operation after periods of power outage.

4. Confined composting methods (in-vessel or totally enclosed). Due to the large variation in composting processes, equipment types, and process configuration characteristic of currently available confined systems, it is not feasible to establish conventional design information. However, a conventionally designed confined composting system can be established from previous operating experience or pilot scale studies. Biosolids removed from a conventionally designed reactor or compost process, following the manufacturer's suggested residence time, would have an equivalent or higher degree of pathogen control and vector attraction reduction than would be achieved after 21 consecutive days of conventional design aerated static pile composting operation.

5. Storage. Storage for curing or drying biosolids compost is usually provided if compost is to be recycled for public use. When dry compost is used as a bulking agent screening is not typically provided. Consideration should be given to covering the drying area. If a cover is provided, it can be designed so that sunlight is transmitted to the composting materials while preventing direct contact with ambient precipitation. Efficient drying may be accomplished by drawing or blowing air through the compost mixture or by mechanical mixing of shallow layers with stationary bucket systems, mobile earth moving equipment, or rotating discs.

Storage areas should provide for up to six months storage of biosolids compost with a similar storage period for bulking materials.

E. Heat stabilization. The design of heat treatment systems is conventionally based on the anticipated sludge flow rate (gpm) with the required heat input dependent on sludge characteristics and concentration. The system may be designed for continuous 24-hour operation to minimize additional heat input to start up the system. Measures for the adequate control of odors should be provided.

Multiple units should be provided unless nuisance-free storage or alternate stabilization methods are available. Multiple units are preferred to avoid disruption to treatment works operation when units are not in service. If a single system is provided, use of standby grinders, fuel pumps, air compressor (if applicable) and dual sludge pumps is normally provided. A reasonable downtime for maintenance and

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repair based on data from comparable facilities is typically included in the design. Adequate storage for process feed and downtime shall be included.

The conventional heat treatment process provides sludge stabilization in a reaction vessel within a range of 175°C or 350°F for 40 minutes to 205°C or 400°F for 20 minutes at pressure ranges of 250 to 400 psig, or provide for pasteurization at temperatures of 30°C or 85°F or more and gage pressures of more than one standard atmosphere (14.7 psia) for periods exceeding 25 days.

The conventional heat drying system involves either direct or indirect contact between a dewatered sludge cake and hot gases in order to reduce the moisture content of the cake to 10% or less. The sludge cake temperature is typically 800°F or more during this process.

F. Incineration. Sludge incinerator ash may be used as either a material additive, or an ingredient for the manufacture of construction materials and other products. Due to the large variation in incineration processes, equipment types, and configurations characteristic of currently available incineration systems, it is not feasible to describe a conventional design. Design of these systems should be based on pilot plant studies or data from comparable facilities.

G. Alkaline stabilization. The three design parameters typically considered fundamental for design of an alkaline stabilization system include: pH, contact time, and mixture temperature.

The alkaline additive dosage required to produce biosolids is determined by the type of sludge, its chemical composition, and the solids concentration. Performance data taken from pilot plant test programs or from comparable facilities should be used in determining the proper dosage.

The conventional design objective is to furnish uniform mixing in order to maintain a pH of 12 or above for two hours or more in the alkaline additive-sludge mixture. The conventional design for accomplishing Class II treatment biosolids (Article 3 of this part) would include adequate means to:

1. Add a controlled dosage of alkaline to sludge and provide uniform mixing.
2. Bring the alkaline additive-sludge mixture pH to the design objective or provide a mixture pH of 12.5 or more and maintain the mixture pH above 12.5 for 30 minutes.
3. The sludge shall not be altered or further distributed for two hours after alkaline treatment.

Class I treatment is achieved when the pH and contact time objectives described in 12 VAC 5-585-520 are accomplished with a temperature of the alkaline-sludge mixture of more than 52°C and the mixture is maintained at a sufficient temperature over a measured contact period to ensure pasteurization.

Pasteurization vessels are conventionally designed to provide for a minimum retention period of 30 minutes. The means for provision of external heat should be specified.

H. Chlorine stabilization. The production of biosolids through high doses of chlorine would be considered on a case-by-case basis.

I. Other stabilization processes. Other processes for conventional production of biosolids can be considered in accordance with available performance data.

12 VAC 5-585-460. General.

12 VAC 5-585-460 through 12 VAC 5-585-500 provide minimum criteria which will be used for reviewing sludge management plans and operating plans. Each plan shall address site specific management practices involving use of biosolids. Final disposition of sludge may involve use or disposal. For the purpose of 12 VAC 5-585-460 through 12 VAC 5-585-500, "use" shall include resource recovery, recycling or deriving beneficial use from the material. "Disposal" shall involve the final disposition of a waste material without resource recovery, recycling or deriving beneficial use from the material.

All practical use options should be evaluated before disposal options are evaluated or selected. Biosolids use practices include land application for agricultural, nonagricultural and silvicultural use and the distribution and marketing of exceptional quality biosolids. Sludge disposal methods include incineration, landfill codisposal, surface disposal, and other dedicated disposal practices, such as burial on dedicated disposal sites.

Water quality protection and monitoring provisions shall be included in all sludge management plans and operating plans, except for those land application practices designed for limited loadings (amounts per area per time period) within defined field areas in agricultural use. Groundwater monitoring requirements shall be evaluated by the commissioner, ~~with the assistance of the Department of Environmental Quality~~, for annual application of biosolids to specific sites, reclamation of disturbed and marginal lands and application to forest land (silviculture). Submittal of site specific (soils and other) information for each identified separate field area shall be required for issuance of permits 12 VAC 5-585-130. For information regarding handling and disposal of septage, refer to the Sewage Handling and Disposal Regulations, 12 VAC 5-610-10 et seq. [*Septage treated and managed in accordance with standards contained in this chapter is defined as either sewage sludge or as biosolids as appropriate.*]

Conformance of biosolids use to local land use zoning and planning should be resolved between the local government and the permit applicant. The permit applicant shall attempt to notify land owners of property within 200 feet and 1,000 feet of the boundaries of sites proposed for frequent use and dedicated sites, respectively, and furnish the division with acceptable documentation of such notifications (i.e., intent to land-apply biosolids on the proposed locations). Relevant

concerns of adjacent landowners will be considered in the evaluation of site suitability. The requirements for processing approvals of sludge management plans and operational plans are included in 12 VAC 5-585-140 H as well as: (i) requirements for notification of applications, hearings and meetings, (ii) minimum information required for completion of a sludge management plan for land application (Part IV, 12 VAC 5-585-620 *et seq.*).

12 VAC 5-585-470. Sludge quality and composition.

A. Sampling and testing sludge. Samples shall be collected so as to provide a representative composition of the sludge. Analytical testing shall be performed by a laboratory capable of testing in accordance with current EPA approved methods or other accepted methods. The operational section of this chapter establishes the minimum constituents which shall be analyzed and the sampling and preservation procedures which should be utilized. The sludge management plan or operational plan shall detail both the sampling and testing methods used to characterize the sludge.

B. Nonhazardous declaration. Regulations under the Resource Conservation and Recovery Act (RCRA) and the Virginia Hazardous Waste Management Regulations (9 VAC 20-60-10 *et seq.*) identify listed hazardous wastes and hazardous waste characteristics. Municipal wastewater or sewage sludge is neither excluded nor specifically listed as hazardous waste. Hazardous wastes as established through RCRA and appropriate state regulations are not managed under ~~these regulations~~ *this chapter*. The owner shall monitor sludge characteristics as required to determine if it is hazardous or nonhazardous and declare to the department that the sludge generated at his facility is nonhazardous.

C. Sludge treatment. Sludges shall be subjected to a treatment process sequence designed to reduce both the pathogen content and the solids content to the appropriate level for the selected method of management, such as land application. For such use options, the sludge treatment provided shall minimize the potential for vector attraction and prevent objectionable odor problems from developing during management. Acceptable levels of pathogen reduction may be achieved by various established conventional treatment methods including Class I treatment to accomplish Class A pathogen control and Class II ~~or III~~ treatment to accomplish Class B pathogen control 12 VAC 5-585-560. The level of pathogen control achieved by nonconventional treatment must be verified by microbiological monitoring (Table 3).

For land application, Class B pathogen, or better, shall be achieved. Such Class I, ~~or II, or III~~ treatment may involve either: anaerobic or aerobic digestion, high or low temperature composting, heat treatment, air drying, or chemical treatment processes utilizing alkaline additives or chlorine. For use of treated sludge or sludge products involving a high potential for public contact, it may be necessary to achieve further pathogen reduction (Class A) beyond that attained by the above processes. Such Class I treatment may be accomplished by (i) heat treatment and

drying, (ii) thermophilic composting, (iii) alkaline treatment. A three-log reduction or more (a thousand-fold reduction) in pathogenic bacteria and viral microorganisms to meet conventional treatment standards. Raw sludge levels of pathogenic bacteria and viral microorganisms [~~is accomplished~~ *can be effectively reduced to safe levels*] by conventional Class I treatment methods.

Properly treated sludges can be safely utilized and should not create any nuisance problems when managed in accordance with approved sludge management or operating plans. A sludge that receives Class I, ~~II or III~~ or II treatment for adequate pathogen control and is treated or managed to properly reduce vector attraction and pollutants within acceptable levels (Table 8-A) is referred to as "biosolids." A Class I treated sludge with approved control of vector attraction and acceptable levels of pollutants (Table 8-B) is referred to as "exceptional quality biosolids."

D. Sludge composition. The characterization of sludge properties is a necessary first step in the design of a use/disposal system. Monitoring and testing for certain pollutants shall be achieved prior to specific use or disposal practices. For the purposes of this chapter, sludge management and testing methods shall account for moisture content including: (i) liquid sludge defined as sludges with less than 15% total solids, (ii) dewatered sludge normally defined as sludges with 15% to 30% total solids; (iii) dried sludge normally defined as sludges with more than 30% total solids.

12 VAC 5-585-490. Transport.

Transport routes should follow primary highways, should avoid residential areas when possible, and should comply with all Virginia Department of Transportation requirements and standards. Transport vehicles shall be sufficiently sealed to prevent leakage and spillage of sludge. For sludges with a solids content of less than 15%, totally closed watertight transport vehicles with rigid tops shall be provided to prevent spillage unless adequate justification is provided to demonstrate that such controls are unnecessary. The commissioner may also require certain dewatered sludges exceeding 15% solids content to be handled as liquid sludges. The minimum information for sludge transport which shall be supplied in the sludge management plan is listed in Part IV (12 VAC 5-585-620 *et seq.*).

12 VAC 5-585-500. Storage facilities.

A. Three types of storage may be integrated into a complete sludge management plan including: (i) "emergency storage" involving immediate implementation of storage for any sludge which becomes necessary due to unforeseen circumstances, (ii) "temporary storage" involving the provision of storage of stabilized sludges at the land application site which becomes necessary due to unforeseen climatic events which preclude land application of biosolids in the day that it is transported from the generator, (iii) "routine storage" involving the storage of biosolids as necessary for all nonapplication periods of the year. Only routine storage facilities shall be considered a facility under this chapter.

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B. Emergency storage. The owner shall notify the division upon implementation of any emergency storage. Approval of such storage and subsequent processing of the sludge and supernatant will be considered as a contingency plan integrated into the sludge management plan. Only emergency storage shall be used for storage of unstabilized sludges. Further processing utilization and disposal shall be conducted in accordance with the approved sludge management plan. Design and implementation of facilities used for emergency storage shall not result in water quality, public health or nuisance problems.

C. Temporary storage. The owner shall notify the division whenever it is necessary to implement temporary storage. Temporary storage may be utilized at the land application site due to unforeseen climatic factors which preclude application of sludge (either off-loaded at the site or in transport to the site) to permitted sites within the same working day. Temporary storage is not to be used as a substitute for routine storage and is restricted as follows:

1. Sludge stored at the site shall be land applied prior to additional off-loading of sludge at the same site;
2. The owner shall be restricted to storing a daily maximum amount of 100 wet tons per operational site;
3. The stored sludge shall be land applied within 30 days from the initiation of storage or moved to a routine sludge facility;
4. Approval of plans for temporary storage will be considered as part of the overall sludge management plan;
5. Temporary storage shall not occur in areas prone to flooding at a 25-year or less frequency interval;
6. A synthetic liner shall be required for placement under and over sludge stored in this manner with one exception: where sludge is stockpiled for less than seven days, a liner placed under the stored sludge is not required. Surface water diversions and other Best Management Provisions (BMP) should be utilized as appropriate; and
7. Temporary storage shall not result in water quality, public health or nuisance problems.

D. Routine storage. Routine storage facilities shall be provided for all land application projects if no alternative means of management is available during nonapplication periods. Plans and specifications for any surface storage facilities (pits, ponds, lagoons) or aboveground facilities (tanks, pads) shall be submitted as part of the minimum information requirements.

1. Location. The facility shall be located at an elevation which is not subject to, or is otherwise protected against, inundation produced by the 100-year flood/wave action as defined by U.S. Geological Survey or equivalent information. Storage facilities should be located to provide minimum visibility. All storage facilities with a

capacity in excess of 100 wet tons and located off-site of property owned by the generator shall be provided with a minimum 750-foot buffer zone. The length of the buffer zone considered will be the distance measured from the perimeter of the storage facility. Residential uses, high-density human activities and activities involving food preparation are prohibited within the buffer zone. The commissioner may consider a reduction of up to 1/2 of the above buffer requirements based on such facts as lagoon area, topography, prevailing wind direction, and the inclusion of an effective windbreak in the overall design.

2. Design capacity. The design capacity shall be sufficient to store a minimum volume equivalent to 60 days or more average production of biosolids and the incidental wastewater generated by operation of the treatment works plus sufficient capacity necessary for: (i) the 25 year-24 hour design storm (incident rainfall and any runoff as may be present); (ii) net precipitation excess during the storage period; and (iii) an additional one foot freeboard from the maximum water level (attributed to the sum of the above factors) to the top berm elevation. Storage capacity of less than that specified above will be considered on a case-by-case basis only if sufficient justification warrants such a reduction. If alternative methods of management cannot be adequately verified contractors should provide for a minimum of 30 days of in-state routine storage capacity for the average quantity of sludge transported into Virginia from out-of-state treatment works generating at least a Class III // level treated sludge.

3. Construction. Storage facilities shall be of uniform shape (round, square, rectangular) with no narrow or elongated portions. The facilities shall be lined in accordance with the requirements contained in sewerage regulations or certificate. The facilities shall also be designed to permit access of equipment necessary for loading and unloading biosolids, and should be designed with receiving facilities to allow for even distribution of sludge into the facility. Design should also provide for truck cleaning facilities as may be necessary. Storage facilities with a capacity of 100 wet tons or less shall comply with the provision for temporary storage as a minimum.

4. Monitoring. All sludge storage facilities in excess of 100-wet ton capacity shall be monitored in accordance with the requirements of this chapter. Plans and specifications shall be provided for such a monitoring program in accordance with the minimum information specified in Part IV (12 VAC 5-585-620 *et seq.*).

5. Operation. Only biosolids suitable for land application (Class A or B Biosolids) shall be placed into permitted routine storage facilities. Storage of biosolids located offsite or remote from the Wastewater Treatment Works during the summer months shall be avoided whenever possible so that the routine storage facility remains as empty as possible during the summer months. Storage

facilities should be operated in a manner such that sufficient freeboard is provided to ensure that the maximum anticipated high water elevation due to any and all design storm inputs is not less than one foot below the top berm elevation. Complete plans for supernatant disposal shall be provided in accordance with Part IV (12 VAC 5-585-620 *et seq.*). Plans for supernatant disposal may include transport to the sewage treatment works, mixing with the biosolids for land application or land application separately. However, separate land application of supernatant will be regulated as liquid sludge; additional testing, monitoring and treatment (disinfection) may be required. The facility site shall be fenced to a minimum height of five feet; gates and locks shall be provided to control access. The fence should be posted with signs identifying the facility. The fence should not be constructed closer than 10 feet to the outside edge of the facility or appurtenances, to allow adequate accessibility.

6. Closure. An appropriate plan of closure or abandonment shall be developed by the permittee when the facility ceases to be utilized and approved by the commissioner. Such plans may also be reviewed by the Department of Environmental Quality.

7. Recordkeeping. A manifest system shall be developed, implemented and maintained and be available for inspection during operations as part of the overall daily recordkeeping for the project (Part IV, 12 VAC 5-585-620 *et seq.*).

12 VAC 5-585-510. Biosolids utilization methods.

A. Agricultural use. Agricultural use of sewage sludge is the land application of biosolids (Table 8) to cropland or pasture land to obtain agronomic benefits as a plant nutrient source and soil conditioner. This use shall require a system design which ensures that the land application procedures are performed in accordance with sound agronomic principles.

1. Sludge treatment. As a minimum, biosolids that are applied to the land or incorporated into the soil shall be treated by a Class III pathogen treatment process and shall be treated or managed to provide an acceptable level of vector attraction reduction.

2. Site soils. Soils best suited for agricultural use should possess good tilth and drainage capabilities, have moderate to high surface infiltration rates and moderate to slow subsoil permeability. Depth to bedrock or restrictive layers should be a minimum of 18 inches. Depth to the seasonal water table should exceed 18 inches as defined by the Soil Conservation Service soil survey. If such information is not available the water table depth may be determined by soil characteristics or water table observations. If the soil survey or such evidence indicates that the seasonal water table can be less than 18 inches below the average ground surface, soil borings shall be utilized within seven days prior to land application operations during periods of high water

table for the soil series present, to verify that the 18-inch depth restriction is complied with during field operations. The use of soil borings and water table depth verification may be required for such sites from November to May (during seasonal high water table elevations) of each year depending on soil type. Constructed channels (agricultural drainage ditch) may be utilized to remove surface water and lower the water table as necessary for crop productions and site management.

The pH of the biosolids and soil mixture shall be 6.0 or greater at the time of each biosolids application if the biosolids cadmium concentration is greater than or equal to 21 mg/kg. The soil pH must be properly tested and recorded prior to land application operations during which a pH change of 1/2 unit or more may occur within the zone of incorporation (i.e., use of biosolids containing lime or other alkaline additives at 10% or more of dry solid weight).

3. Management practices.

a. Application rates and requirements. Process design considerations shall include sludge composition, soil characteristics, climate, vegetation, cropping practices, and other pertinent factors in determining application rates. Site specific application rates should be proposed using pertinent [*sludge biosolids*] plant available nitrogen (PAN) and crop nutrient needs (agronomic rate listed in Table 11) [*and*] the cumulative metals trace element loading rates (Table 9) [*and the maximum Calcium Carbonate Equivalent (CCE) Loading rates (Table 14)*]. [*Lime amended biosolids shall be applied at rates which are not expected to result in a target soil pH in the plow layer above a pH of 6.5 for soils located in the coastal plain and above a pH of 6.8 in other areas of the state (Table 14).*] Agricultural use of treated septage shall be in accordance with these requirements (Table 13). The biosolids application rate shall be restricted to the following criteria in accordance with the approved operation plan:

(1) For infrequent applications, biosolids may be applied such that the total crop needs for nitrogen (Table 11- *Agronomic Rate*) is not exceeded (in order to minimize the amount of nitrogen that passes below the crop root zone to actually or potentially pollute groundwater), ~~up to a maximum loading of 15 dry tons per acre, during a normal one year crop rotation period (this includes a double crop system)~~ including the production and harvesting of two crops in succession within a consecutive 12-month growing season. However, the total application of biosolids shall not exceed a computed maximum loading of 15 dry tons per acre, unless a higher loading can be justified in relation to both the biosolids and the site characteristics, including the biosolids nutrient and dry solids content and the site slopes. No further applications of biosolids shall be allowed for a period of three years from the last

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application date that the agronomic rate is achieved for the crop or crops grown in the following 12 months.

(2) The infrequent application rate may be restricted: (i) down to 10% of the maximum cumulative loading rate (Table 9) for cadmium and lead (i.e., 2.0 kilograms per hectare (kg/ha) for cadmium); (ii) to account for all sources of nutrients applied to the site, including existing residuals.

(3) The infrequent application rate may also be restricted by the maximum established CCE loading rate (Table 14).

(4) For systems designed for frequent application of biosolids (application of the PAN requirement for a normal crop rotation more frequently than once in every three years), the previous year's applied Biosolids nitrogen and mineralization rates (Table 12) and soil phosphorus levels, shall be considered in the design and proposed subsequent application rates. Acceptable nutrient management requirements shall be included in the operation plan for all sites proposed for frequent *at-agronomic* application rates.

(5) Frequent below agronomic application rate would involve frequent applications of biosolids, providing up to a maximum 70% of the annual nitrogen requirements for permanent hay or pasture fields. The annual pollutant loading rates, the previous year's applied biosolids, nitrogen and mineralization rates and soil phosphorus levels shall be considered in the design of proposed subsequent application rates.

b. ~~Standard slopes and topography. Uniform application of biosolids at approved rates to permitted sites with standard slopes of 8.0% or less will provide acceptable protection of water quality. Biosolids shall not be applied to site slopes exceeding 15%. Biosolids should be directly injected into soils on sites exhibiting slopes exceeding 12% unless best management practices are utilized to minimize soil erosion. Biosolids shall be incorporated (mixed within the normal plow layer within 48 hours) if: (i) applied on cultivated sites exhibiting slopes of 8.0% or more; (ii) surface applied to bare ground (less than 60% uniformly covered by stalks, vines, stubble, etc.) within any portion of the permitted site; or (iii) applied to soils during periods of time soils may be subject to frequent flooding from surface water flows as defined by soil survey information. Biosolids shall not be applied to sites with average slopes exceeding 5.0% if: (i) site is cultivated and ground is frozen; or (ii) site is fallow ground or bare ground and application would occur between October 16 and March 14 time period and no agronomically justified crop is to be planted within a 30-day period following application. Biosolids may be applied on sites with slopes up to 8.0% if the~~

~~application complies with accepted nutrient management practices or an approved soil conservation plan, or 30% or more crop residue remains on the ground surface following incorporation of the biosolids.~~

~~c. Operations. An operation plan, including specific descriptions of sites receiving biosolids shall be submitted and evaluated for issuance of a operation permit in accordance with 12 VAC 5-585-200 or 12 VAC 5-585-240 (Appendix B). The operation plan shall specify the proposed site management practices including cropping restrictions and access controls (Table 10). The operation plan shall include nutrient management requirements for all sites owned or operated in conjunction with confined animal feeding operations as defined by the State Water Control Board. Biosolids shall not be applied to sites for which crops intended for direct human consumption (consumed without processing to eliminate pathogens) will be grown within 18 months of application, unless the biosolids have been subjected to a process sequence operated to eliminate pathogens as verified by acceptable monitoring and testing. Root crops intended for direct human consumption may be subject to additional time restrictions in accordance with the sludge treatment unit processes (Table 10). Biosolids utilization performed in accordance with this chapter will not cause health hazards, water quality degradation, or render the soil unsuitable for future land use. The prevention of public nuisances such as documented interference with use of adjacent property, the tracking of biosolids and soil mixtures onto roadways at field entrances, etc., shall be addressed by appropriate field management practices.~~

~~(1) Field management. The application rate of all application equipment shall be routinely measured as described in an approved sludge management plan and every effort shall be made to ensure uniform application of biosolids in accordance with approved maximum design loading rates. Liquid sludges shall not be applied at rates exceeding 14,000 gallons per acre, per application. Application vehicles should be suitable for use on agricultural land. Biosolids applied to either cultivated ground with slopes exceeding 8.0% on more than 10 acres, or to any bare ground shall be incorporated within 48 hours of application of sludge, for any portion of the site, to minimize non-point source runoff. Pasture and hay fields should be grazed or clipped to a grass height of four and six inches or less, respectively, prior to biosolids application unless the biosolids can be uniformly applied so as not to mat down the vegetative cover so that site vegetation can be clipped to a height of approximately four inches within one week of the sludge application. Biosolids application shall not be made during times when the seasonal high water table of the soil is within 18 inches of the ground surface. Surface~~

~~application of biosolids shall not be made to cultivated or bare ground covered with ice. However biosolids may be applied to snow covered ground if the snow cover does not exceed an average depth of one inch and the snow and biosolids are immediately incorporated. Dry or dewatered biosolids may be applied to frozen ground only if: (i) site slopes are 5.0% or less; (ii) 200-foot vegetative (i.e., not bare ground) buffer is maintained from surface water courses; (iii) entire application site is not bare ground and the site soils are characterized as well drained. When biosolids are land applied between March 15 and October 15, crop planting following biosolids application should take place within a 30 day period. If biosolids are applied between October 16 and March 14 to cultivated land, the average site slope shall not exceed 5.0% and the crop should be planted no later than the spring planting season within six months of application. Additionally, for biosolids incorporation into cultivated land which does not support vegetation or adequate crop residue:~~

~~(a) Application shall be limited to slopes averaging 5.0% or less. Average slopes greater than 5.0% and up to and including 8.0% may be used if the biosolids application is in compliance with nutrient management practices, an approved Soil Conservation Plan, or 30% or greater crop residue remains after biosolids incorporation.~~

~~(b) Buffers of 100 feet for surface application and 50 feet for subsurface application shall be maintained to perennial streams and other surface water bodies.~~

~~(c) Biosolids shall be injected or incorporated within 24 hours. Subsurface incorporation includes either direct injection, or incorporation within 24 hours of application. Standard slope and buffers apply if: (i) vegetation or adequate crop residue is present, (ii) planting is to occur within a 30 day period after application.~~

~~(5) Frequent below-agronomic application rate involves frequent applications of biosolids on permanent pasture or hay at less than the PAN requirement listed in Table 11. Frequent below-agronomic application rates shall be calculated using one of the following options:~~

~~(a) A maximum of 70% of the nitrogen requirement of the permanent pasture or hay crop can be applied on an annual basis. The 70% application rate shall be calculated after accounting for the previous two years' applied biosolids nitrogen mineralization rates.~~

~~(b) A maximum of 50% of the nitrogen requirement of the permanent pasture or hay crop can be applied on an annual basis. It is not necessary to account for the previous two years'~~

~~applied biosolids nitrogen mineralization rates under this option.~~

~~For systems designed for frequent below-agronomic rates, surface and groundwater monitoring and a certified nutrient management plan shall not be required. Soil phosphorus levels shall be considered in the design of proposed subsequent application rates. On warm-season grasses and alfalfa, no application shall be made between September 15 and March 15.~~

~~b. Standard slopes and topography. Management practices specifying uniform application of biosolids at approved rates should be established in accordance with standard slopes. Agronomic practices and crop growth on sites with slope of not greater than 5.0% will provide acceptable protection of surface water quality during the active growing season. If biosolids are applied to site slopes greater than 5.0% during the period of November 16 of one year to March 15 of the following year certain Best Management Practices (BMP's) should be utilized (see subdivision 3 c (1) of this subsection). Biosolids should be directly-injected into soils on sites exhibiting erosion potential unless other best management practices are utilized to minimize soil erosion and the potential of nonpoint runoff. Biosolids shall not be applied to site slopes exceeding 15%. Biosolids shall be direct-injected or incorporated (mixed within the normal plow layer within 48 hours) if: (i) applied on sites with less than 60% uniform residue cover (stalks, vines, stubble, etc.) within any portion of the site; or (ii) applied to soils during periods of time soils may be subject to frequent flooding as defined by soil survey information.~~

~~c. Operations.~~

~~(1) Field management. The application rate of all application equipment shall be routinely measured as described in an approved sludge management plan and every effort shall be made to ensure uniform application of biosolids within sites in accordance with approved maximum design loading rates. Liquid sludges shall not be applied at rates exceeding 14,000 gallons per acre, per application. Sufficient drying times shall be allowed between subsequent applications. Application vehicles should be suitable for use on agricultural land. Pasture and hay fields should be grazed or clipped to a height of approximately four and six inches, respectively, prior to biosolids application unless the biosolids can be uniformly applied so as not to mat down the vegetative cover so that the site vegetation can be clipped to a height of approximately four inches within one week of the biosolids application. If application methods do not result in a uniform distribution of biosolids, additional operational methods shall be employed following application such as dragging with a pasture harrow, followed by~~

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clipping if required, to achieve a uniform distribution of the applied biosolids.

When biosolids are applied to site slopes greater than 7.0% between the period of November 16 of one year, and March 15 of the following year, one of the following practices shall be used to prevent runoff and soil loss:

(a) Biosolids are surface applied or subsurface injected beneath an established living crop such as hay, pasture, or timely planted small grain or cover crop;

(b) Biosolids are surface applied or subsurface injected so that immediately after application the crop residue still provides at least 60% soil surface coverage; or

(c) Biosolids are applied by surface application or subsurface injection and the site is operated in compliance with an existing soil conservation plan approved by the U.S.D.A. Natural Resource Conservation Service and will remain in compliance after any subsequent tillage operation to incorporate the biosolids.

If site slopes exceed 5.0% up to 7.0%, biosolids can be applied by surface application or subsurface injection followed by: (i) incorporation within 48 hours of application if crop residue still provides at least 30% soil surface coverage immediately following incorporation, or (ii) ridge tilling or chisel plowing within 48 hours of application; during the period of November 16 to March 15 of the following year. The site should be chisel plowed or ridge tilled predominately along the contour so that uniform parallel ridges of four inches or greater are created that will improve soil roughness and reduce runoff. Consideration should also be given to the use of similar practices on slopes of 5.0% or less when feasible for applications during the late fall and winter.

Biosolids application shall not be made during times when the seasonal high water table of the soil is

within 18 inches of the ground surface. Biosolids may only be applied to snow covered ground if the snow cover does not exceed one inch and the snow and biosolids are immediately incorporated within 24 hours of application. Liquid sludges may not be applied to frozen ground. Dry or dewatered sludges may be applied to frozen ground only if: (i) site slopes are 5.0% or less; (ii) a 200-foot vegetative (i.e., at least 60% uniformly covered by stalks or other vegetation) buffer is maintained from surface water courses; and (iii) the entire application site has uniform soil coverage of at least 60% with stalks, vines, stubble, or other vegetation and the site soils are characterized as well drained.

When biosolids are land applied between March 15 and September 1, crop planting following biosolids application should occur within a 30-day period. When biosolids are applied to sites between September 1 and November 16, an agronomically justified crop capable of trapping plant available nitrogen such as small grain shall be planted within 45 days of the application of biosolids or prior to November 16, whichever comes first, or an established cool season grass sod or timely planted small grain crop shall be present. The crop planted should be capable of germination and significant growth before the onset of winter so the plant is able to use available nitrogen released by the biosolids.

On sites with a high leaching index (greater than 10) as defined by the Department of Conservation and Recreation, an established cool season grass or timely planted small grain crop should be present when biosolids are applied to such sites between November 16 and December 21.

(2) Standard buffer zones. If slopes are greater than 7.0% and biosolids will be applied between November 16 and March 15, standard buffer distances to perennial streams and other surface water bodies shall be doubled. The location of land application of biosolids shall not occur within the following minimum buffer zone requirements:

Minimum Distances (Feet) to Land Application Area

Adjacent Features	Surface Application ⁽¹⁾	Incorporation	Winter ⁽²⁾
Occupied dwellings	200 ft	200	200
Water supply wells or springs	100 ft.	100	100
Property lines	100 ft.	50	100
Perennial streams and other surface waters except intermittent streams	50 ft.	35	100
Intermittent streams/ drainage ditches	25 ft.	25	50
All improved roadways	10 ft.	5	10

Rock outcrops and sinkholes	25 ft.	25	25
Agricultural drainage ditches with slopes equal to or less than 2.0%	10 ft.	5	10

Note: ⁽¹⁾ Not plowed or disced to incorporate within 48 hours;

⁽²⁾ Application occurs on average site slope greater than 7.0%, during the time between November 16 of one year and March 15 of the following year.

The stated buffer zones to adjacent property boundaries, surface waters, and drainage ditches constructed for agricultural operations may be reduced by 50% for subsurface application (includes same day incorporation) unless state or federal regulations provide more stringent requirements. Written consent of affected landowners is required to reduce buffer distances from property lines and dwellings. In cases where more than one buffer distance is involved, the most restrictive distance governs. Buffer requirements may be increased or decreased based on either site specific features, such as agricultural drainage features and site slopes, or on biosolids application procedures demonstrating precise placement methods.

(3) Monitoring. Groundwater and surface water and soils monitoring may be required for any frequent application sites (reach agronomic rate more than once in three years) for which a potential environmental or public health concern is identified by the commissioner in accordance with this chapter. Groundwater monitoring should not be required for infrequent application of biosolids.

B. Forestland (Silviculture). Silvicultural use includes application of biosolids to commercial timber and fiber production land, as well as federal and state forests. The forestland may be recently cleared and planted, young plantations (two-year-old to five-year-old trees) or established forest stands.

1. Sludge standards. Refer to Article 3 of this part.
2. Site suitability. Site suitability requirements should conform to subdivision A 2 of this section. The soil pH should be managed at the natural soil pH for the types of trees proposed for growth.
3. Management practices.
 - a. Application rates. Biosolids application rates shall be determined by the division in accordance with the provisions of 12 VAC 5-585-510 A 3 and based on nitrogen uptake rates and yields as recommended in information provided by the Virginia Department of Forestry.
 - b. Operations.
 - (1) Field management.
 - (a) High pressure spray shall not be utilized if public activity is occurring within 1,500 feet downwind of the application site. Public access to

the site shall be adequately limited or controlled following application (Article 3 of this part).

(b) The operations should only proceed when the wind velocity is less than or equal to 15 miles per hour. When high pressure spray is used windless conditions are preferred for such operations.

(c) Biosolids application vehicles should have adequate clearance to be suitable for silvicultural field use.

(d) Application scheduling should take into account high rainfall periods and periods of freezing conditions.

(e) Monitoring requirements shall be site specific and may include groundwater, surface water or soils, for frequent application sites.

(2) Buffer zones. Buffer zones should conform to those for agricultural utilization. Refer to Table 2.

C. Reclamation of disturbed land. Biosolids applied at rates exceeding the agronomic rate may reclaim disturbed land in one or more of the following ways: (i) surface or underground mining operations, (ii) the deposition of ore processing wastes, (iii) deposition of dredge spoils or fly ash in construction areas such as roads and borrow pits. Reclamation of disturbed land is within the jurisdiction of the Virginia Department of Mines, Minerals and Energy. That department should be contacted concerning issuance of a permit for these operations. The land reclamation operation plan should be prepared with the assistance of the Virginia Department of Conservation and Recreation, the Soil Conservation Service and the Virginia Cooperative Extension Service.

1. Sludge standards. Refer to Article 3 of this part.
2. Site suitability. Site suitability requirements should conform to subdivision A 2 of this section. Exceptions may be considered on a case-by-case basis.
3. Management practices.
 - a. Application rates. The application rates shall be established based on by the division in accordance with 12 VAC 5-585-510 A 3 and the recommendation of appropriate agencies including the Virginia Department of Mines, Minerals and Energy and the appropriate faculty of the Department of Crop and Soil Environmental Sciences of the Virginia Polytechnic Institute and State University.
 - b. Vegetation selection. The land should be seeded with grass and legumes even when reforested in order

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to help prevent erosion and utilize available plant nitrogen. The sludge management plan should include information on the seeding mixture and a detailed seeding schedule.

c. Operations.

(1) The soil pH should be maintained at 6.0 or above if the cadmium level in the biosolids applied is at or above 21 mg/kg. during the first year after the initial application. Soil samples should be analyzed by a qualified laboratory. The application rate shall be limited by the most restrictive cumulative ~~metals~~ *trace element* loading (Table 9).

(2) Surface material should be turned or worked prior to the surface application of liquid biosolids, to minimize potential for runoff, since solids in liquid sludge can clog soil surface pores.

(3) Unless the applied biosolids are determined to be Class A or have been documented as subjected to Class I treatment, crops intended for direct human consumption shall not be grown for a period of three years following the date of the last sludge application, unless the crop is tested to verify that the crop is not contaminated. No animals whose products are intended for human consumption may graze the site or obtain feed from the site for a period of six months following the date of the last biosolids application, unless representative samples of the animal products are tested after grazing and prior to marketing to verify that they are not contaminated.

12 VAC 5-585-520. Distribution or marketing.

A. Exceptional quality. Distribution or marketing provides for the sale or distribution of exceptional quality biosolids or mixtures of Class I treated biosolids with other materials such that the mixture achieves the Class A pathogen control standard. Distribution or marketing of Class I treated biosolids which have been mixed with inert materials may be approved on a case-by-case basis. Inert materials shall not contain pathogens or attract vectors. *Use of such mixtures for agricultural purposes should be evaluated through proper testing or research programs designed to assess the suitability of the material for such use.* Exceptional quality biosolids marketed as fertilizers or soil conditioners, must be registered with the Virginia Department of Agriculture and Consumer Services. The permit applicant shall obtain such registration prior to issuance of a permit by the commissioner for residential, agricultural, reclamation or silvicultural use.

1. Because of the high potential for public contact with distributed and marketed sludge or sludge products, only biosolids processed to meet criteria specified for Class I treatment process sequences designed to eliminate or further reduce pathogens (PFRP), shall be sold or given away for application to land. In addition, the biosolids must meet vector attraction reduction requirements, and

other quality standards (Table 9) as required for the intended use.

2. Exceptional quality biosolids may be distributed and marketed in either bulk amounts (unpacked) or as a bagged product. For purposes of this chapter, a bulk use quantity of biosolids will be defined as a volume of that sludge product containing 15 dry tons or more of sewage sludge. Application of bulk use quantities of exceptional quality biosolids to home vegetable gardens shall not exceed an equivalent annual loading rate of approximately one pound dry weight of biosolids per square foot (garden products may constitute a significant portion of a family diet and the amount of applied biosolids cannot be specifically controlled as in agricultural use). Exceptional quality biosolids can ideally be used as soil amendments for horticulture and landscaping purposes such as:

a. Use in potting soil mixes;

b. Use for seed beds, for establishment of grass and other vegetation and for topdressing of existing lawns and landscape vegetation.

3. Only exceptional quality biosolids produced from an approved sludge processing facility can be distributed and marketed. Biosolids sold for use as soil amendments or fertilizers must be registered with the Virginia Department of Agriculture and Consumer Services. Approved sludge processing facilities are those facilities constructed and operated in compliance with required permits. Approved methods of Class I processing for biosolids for distribution or marketing include, but may not be limited to, the methods described in Article 3 of this part.

B. Permits. Any owner who proposes to distribute or market exceptional quality biosolids or materials derived from Class I biosolids (*distributor*), including soil additives or compost in bulk use quantities, shall be required to obtain a written approval issued by the State Health Commissioner. The derived material shall achieve acceptable vector attraction reduction standards and contain acceptable levels of solids and pollutant concentrations in accordance with this chapter. A permit for distribution or marketing is not required provided that an operation permit has been issued for land application of the processed material as part of either an approved sludge management plan (12 VAC 5-585-140 H) or an approved operation plan (12 VAC 5-585-240). Approval of the distribution of bulk use quantities of exceptional quality biosolids is not required for a holder of a valid permit that authorizes distribution in bulk use quantities. All requests for bulk use approval shall be directed initially to the appropriate field office of the department. The Virginia Department of Environmental Quality, the Virginia Department of Agriculture and Consumer Services and the Virginia Department of Conservation and Recreation may participate in the review of such permits involving land application. An operation permit for distribution of bulk use quantities of ~~exceptional quality~~ biosolids will require the submittal and review of an

acceptable distribution information sheet as described in this chapter. The approval of a distribution information sheet for bulk use quantities of exceptional quality biosolids will be issued in the form of a letter of approval of such use by the department's field offices or the Division of Wastewater Engineering.

The permittee shall maintain records on the sludge processing facility operation, maintenance and laboratory testing. Records shall be maintained for all samples to include the following: (i) the date and time of sampling, (ii) the sampling methods used, (iii) the date analyses were performed, (iv) the identity of the [*individual obtaining each sample and the*] analysts, (v) the results of all required analyses and measurements. The records shall include all data and calculations used and shall be available to the department for inspections at reasonable times. All required records shall be kept for a minimum of five years.

C. Information furnished to all users. Exceptional quality Biosolids distributed for public use in Virginia shall have proper identification of the producer and a description of the product including an acceptable statement of quality based on representative analytical testing. This information shall be provided by the owner in either brochures for bulk distribution or by proper labeling on bagged material. Labeling requirements should be addressed in a management plan or in the operation and maintenance manual for the processing facility. Users of biosolids shall be informed that the supplied material is not to be used to grow mushrooms as a food crop.

Information provided to users of exceptional quality *marketed or distributed* biosolids should note the following: (i) the nutrient content, (ii) the acceptable land application rates, (iii) the CCE value, the pH and, (iv) the necessary precautions to be followed when handling exceptional quality biosolids. When biosolids are land applied on residential or public contact (recreation) sites, the following restrictions apply: to follow the stated directions for use, and (v) that for any uses not specified the user should contact the distributor at a listed address or telecommunications number.

1. Exceptional quality biosolids should not be spread during precipitation events or spread on land with slope greater than 8.0% (eight foot rise in 100 feet), unless a suitable vegetative cover is provided or the biosolids are incorporated within the topsoil immediately following application.

2. The application site with suitable vegetative cover should not exceed a slope of 12% unless the exceptional quality biosolids are to be incorporated (retilled or disced) within 48 hours after application.

3. Surface application not followed by immediate (same day) incorporation should not occur on: (i) snow covered areas, (ii) any poorly drained soils if the water table is within 18 inches of the ground surface, (iii) areas exhibiting seasonal ponding, (iv) the 25 year floodplain as defined and delineated by acceptable methods, (such as flood hazard surveys).

4. Land application should not occur within 100 feet of a public water source, nor 50 feet of a private supply unless the private owner consents.

5. Public access to the site should be controlled to avoid direct human contact during and immediately (same day) following the spreading operations.

The processing facility owner shall establish the means to provide information available at the sludge processing site, for inspection by the department. Such information shall document the distribution of exceptional quality biosolids to a single distributor or user in bulk use quantities exceeding 50 cubic yards in a period of five consecutive days. This documentation shall include the name and address of bulk distributors and bulk users and a description of the intended use of bulk use quantities. All users of bulk use amounts that are utilized or stored on a single contiguous site shall be required to provide information identifying that location to the distributor to be furnished to the department upon request. The applied amounts of exceptional quality biosolids should be maintained within recommended volumes or weights per square area. Biosolids should be applied evenly and should not be stockpiled in amounts exceeding 100 cubic yards on unlined ground surfaces for more than seven consecutive days unless adequate covering is provided to prevent potential water quality problems from occurring. Exceptions to the requirement to provide covering may be granted if the applicant satisfactorily demonstrates that water quality pollution will be prevented in the absence of covering. Surface applications of exceptional quality biosolids should be restricted to such thickness for which a uniform application can be obtained. Users of nonbulk amounts of exceptional quality biosolids shall be adequately informed of proper site management practices as for home garden use.

D. Distribution information. A Distribution information form shall be provided *should be maintained* by the sludge processing facility owner or holder of an operation permit for distribution or marketing (*distributor*) and completed by any single biosolids distributor or user prior to receiving bulk use quantities of unblended exceptional quality *marketed or distributed* biosolids of more than 50 cubic yards during a period of five consecutive days of 24 consecutive hours or less. Copies of this form *shall information should be* maintained by the sludge processing facility. *Such records shall or distributor and* be made available upon request by *the division*. This form shall contain *These records should include* the following information, as available, at a minimum:

1. Date;
2. Name, address, and phone number of user;
3. Amount of exceptional quality biosolids obtained;
4. Location and property owner where biosolids are being used;
5. Size of area where biosolids are spread;
6. Proximity of site to closest river or water supply source; and

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7. Description of site uses.

Only the information listed in subdivisions 1 through 4 shall be necessary for submission by a biosolids distributor.

The department reserves the right to prohibit the distribution of bulk use quantities of biosolids when it appears that such distribution is being accomplished in such a manner so as to circumvent the foregoing requirements.

E. Other uses. The use of a nonhazardous sewage sludge product, such as incinerator ash, will be evaluated on a case-by-case basis as provided for by this chapter.

12 VAC 5-585-530. Sludge disposal.

Permits for sludge disposal practices will be issued through other state and federal regulations and are not subject to this chapter. Such practices may include:

1. Incineration. Emission quality control requirements will be established in accordance with state and federal regulations. The generated ash is required to be properly managed in accordance with *local*, state and federal regulations. Applicable regulatory requirements in addition to ~~these regulations~~ *this chapter* may involve permits issued by the appropriate state and federal agencies. Buffer separation requirements will be established on a site specific basis in accordance with the applicable regulations.

2. Landfill. Management of stabilized sludge suitable for topdressing of completed landfill areas will be subject to state and federal regulations. Codisposal of sludge within municipal solid waste landfills is subject to state and federal regulation. Codisposal requirements have included:

a. Stabilization treatment of sludges.

b. Dewatering of sludges by methods designed to achieve a suspended solids level of 20% or more, or a treated sludge sample passes the paint filter test standards for free water.

c. A nonhazardous declaration from the owner.

3. Lagooning (surface disposal). When these facilities are closed by burying the wastes in place, they may be considered to be surface disposal sites. A closure plan shall be provided to the appropriate agencies.

4. Dedicated sites. The primary purpose of surface disposal sites is to allow frequent long-term sludge application at a single location at amounts which exceed agronomic rates but not for the purpose of reclaiming disturbed soils. Sludge disposal operations on dedicated sites will be subject to *local*, state and federal regulations including site management practices. Permits will be issued through state and federal regulations to protect public health and the quality of state waters. Any dedicated site may be subject to local zoning requirements and may be recorded as a dedicated site in the appropriate circuit court deed book (Table A-3).

12 VAC 5-585-550. Biosolids characteristics; nutrients; heavy metals trace elements; organic chemicals.

A. The primary agronomic value of biosolids, the nutrient content, shall be established prior to agricultural use. The applied nitrogen and phosphorous content of biosolids shall be limited to amounts established to support crop growth. Nitrate nitrogen developed as a result of biosolids application shall be controlled in order not to accumulate in groundwater as a pollutant. Thus, the amount of biosolids applied to land shall be restricted based on the nitrogen requirements of the crop grown on the amended site immediately following application (agronomic rate). In addition, soil erosion and site runoff should not result in phosphorous pollution of surface waters as a result of surface application of biosolids. The results of approved groundwater monitoring programs may be utilized to verify frequent application rates.

B. The heavy metal content of biosolids may restrict the application rate below the agronomic rate. However, municipal biosolids would not normally contain excessive heavy metal concentrations unless a significant amount of a high metal content wastewater without pretreatment is routinely discharged into the municipal system. If a biosolid contains heavy metal concentrations below the ceiling values listed in Table 8, or is processed and evaluated as exceptional quality biosolids, the application rate for agricultural use shall be unrestricted up to the agronomic rate for infrequent applications. The accumulated amount of ~~heavy metals trace elements~~ can restrict the application rate for frequent applications of biosolids.

C. Municipal biosolids can contain synthetic organic chemicals from industrial wastewater contributions and disposal of household chemicals and pesticides. Municipal biosolids typically contain very low levels of these compounds; however, biosolids may be required to be tested for certain toxic organic compounds prior to agricultural use (Table 13). If performed and validated, these test results shall be utilized to evaluate the maximum allowable annual loading rate for the tested biosolids. If analytical test results verify that biosolids contains levels of organic chemicals exceeding concentration limits incorporated in federal regulations or standards, appropriate restrictions shall be imposed for agricultural use of that biosolid.

12 VAC 5-585-560. Biosolids treatment.

A. Stabilization. Biosolids treatment processes are primarily designed to increase the solids content of the biosolids by separation and removal of liquid and are designed to stabilize the solid fraction through biochemical conversions that inactivate pathogens and reduce vector attraction characteristics and the potential for odor production. Such treatment should be designed to improve the characteristics of the biosolids for a particular use/disposal practice, increase the economic viability of using a particular practice and reduce the potential for public health, environmental and nuisance problems.

B. Class I treatment. Class I treatment may be achieved by process sequences to further reduce (PFRP) or eliminate

pathogens, i.e., Class A pathogen control. Class I treatment methods reduce all pathogens potentially contained in biosolids or septage to a level below specified limits (Table 3). Class A microbiological standards and an acceptable solids content shall be achieved at the time biosolids are used or prepared for distribution or marketing in accordance with the appropriate management practices specified in this chapter. Class I treatment processes should include one or more of the following operations:

1. Heat treatment. The temperature of the biosolids that is used or disposed is maintained at a specific value for a specified period of time:

a. When the percent solids of the biosolids is 7.0% or higher, the temperature of the biosolids shall be 50°C or higher; the time period shall be 20 minutes or longer; and the temperature and time period shall be determined using equation B-1, except when small particles of biosolids are heated by either warmed gases or an immiscible liquid.

$$\text{Equation B-1: } D1 = (131,700,000) / 10(\exp 0.1400(t))$$

Where,

D1 = time in days that biosolids temperature is t or more

t = Biosolids temperature in degrees Celsius (°C).

exp = exponent or power that Base 10 is raised to.

b. When the percent solids of the biosolids is 7.0% or higher and small particles of biosolids are heated by either warmed gases or an immiscible liquid, the temperature of the biosolids shall be 50°C or higher; the time period shall be 15 seconds or longer; and the temperature and time period shall be determined using equation B-1.

c. When the percent solids of the biosolids is less than 7.0% and the time period is at least 15 seconds, but less than 30 minutes, the temperature and time period shall be determined using equation B-1.

d. When the percent solids of the biosolids is less than 7.0% the temperature of the biosolids is 50°C or higher; and time period is 30 minutes or longer, the temperature and time period shall be determined using equation B-2.

$$\text{Equation B-2: } D2 = (50,070,000) / 10(\exp 0.1400(t))$$

D2 = time in days that biosolids temperature is t or more

t = Biosolids temperature in degrees Celsius (°C).

e. The temperature of the biosolids is maintained at 70°C or higher for a time period of 30 minutes or longer (Pasteurization).

2. Heat drying. A process wherein dewatered biosolids cake is dried by direct or indirect contact with hot gases and the biosolids moisture content is reduced to 10% or

lower. Direct drying is achieved when the biosolids particles reach temperatures of 80°C or higher. Indirect drying may involve the temperature of the gas stream measured at the point where the gas stream leaves the dryer. Indirect drying may be achieved when the wetbulb temperature of the gas stream leaving the dryer is in excess of 80°C or the biosolids particles reach temperatures of 80°C or higher.

3. Thermophilic composting. A process using the within-vessel composting method which maintains a treated biosolids temperature of 55°C or greater for three days. A process using the static aerated pile composting method which maintains a treated biosolids temperature of 55°C or greater for three days. A process using the windrow composting method which maintains a treated biosolids temperature at 55°C or greater for at least 15 days during the composting period, and during the indicated high temperature period, there is a minimum of five turnings of the windrow. Operating temperatures are measured at the depth of 30 cm from the surface of the compost mixture. As thermophilic composting processes are less efficient in destroying pathogens than other disinfection processes an additional storage of processed compost up to 30 days or more may be necessary to achieve an adequate level of vector attraction reduction as verified by testing prior to final disposition (Table 3).

4. Thermophilic aerobic digestion. Liquid biosolids consisting of 50% or more waste biological liquid by dry weight, is agitated with air or oxygen to maintain one mg/l or more dissolved oxygen at mid-depth, during a mean cell residence time of 10 days or more at 55°C or more.

5. Alkaline (PFRP) stabilization. Thorough blending of an alkaline additive to digested biosolids in sufficient quantities to produce a mixture pH of 12 or more for a period of 72 hours or more with one of the following: (i) mixture temperature of 55°C for a minimum period of 12 hours, (ii) mixture temperature of 70°C or more for a minimum period of 30 minutes or more. Such treatment may be followed by storage for an acceptable period of time to dry the mixture to an adequate dry solids content. Alkaline addition to undigested biosolids will be considered on a case-by-case basis with extensive monitoring used to verify the level of pathogen control achieved.

6. Chlorine oxidation. A process of introducing high doses of chlorine (1,000 mg/l to 3,000 mg/l) into the biosolids stream under low pressure (30 psig or more) producing a biosolids pH of four or less in order to achieve Class A microbiological standards (Table 3), followed by acceptable drying to achieve a suspended solids content of 30% or more.

7. Alternative equivalent stabilization processes. The process operating parameters for alternative equivalent stabilization processes (PFRP) should be addressed,

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case-by-case, based on division evaluation of the results of adequate monitoring and testing programs (Table 3), with input from the USEPA staff, i.e., the Pathogen Equivalency Committee.

C. Class II treatment. Class II Treatment may be achieved by Process Sequences to Significantly Reduce Pathogens (PSRP), i.e., Class B Pathogen Control. Class II treatment methods reduce bacteria (fecal coliform, fecal streptococci, enterococci) found in the treated biosolids or septage two 1½ logs or more (499 32 fold) below the densities found in the raw biosolids to achieve a density of (6 6.3 log10 per gram of total solids or less (Table 3)). Class B microbiological standards shall be achieved at the time the biosolids are removed and transported for land application in accordance with the management practices specified. Class II treatment processes may include one or more of the following operations:

1. Anaerobic digestion. A process whereby biosolids are maintained in an anaerobic environment for a mean cell residence period ranging from 60 days at 20°C to 15 days at 35°C.
2. Aerobic digestion. A process of agitating biosolids with air or oxygen to maintain aerobic conditions for a mean cell residence period ranging from 60 days at 15°C to 40 days at 20°C.
3. Low-temperature composting. A process using the within-vessel, aerated static pile or windrow composting methods, whereby the temperature of treated biosolids is maintained at a minimum of 40°C for five days. For four hours during this period the operating temperature of the treated biosolids exceeds 55°C. Additional storage of processed compost for 30 days or more may be necessary to provide the necessary level of vector attraction reduction prior to final disposition.
4. Alkaline (PSRP) stabilization. A process where sufficient alkaline additive is blended with unstabilized biosolids to produce a minimum mixture pH of 12 after two hours of contact and a pH of 11.5 or more for 22 additional hours or more, with storage for a period sufficient to produce an acceptable dry solids content as necessary for the method of final disposition.
5. Air drying. Biosolids treated by methods similar to those listed above, but not meeting Class II or III treatment standards are dried on sand beds or in basins with underdrains for a minimum period of three months, during which time the ambient daily temperature exceeds 0°C and a dried biosolids are produced.

~~D. Class III treatment. Class III treatment may be achieved by Process Sequences to Lower Pathogens (PSLP) that can result in Class B Pathogen Control. Class III treatment methods can reduce pathogenic bacteria (fecal coliform, fecal streptococci, enterococci) found in the treated biosolids or septage to 1.5 logs (32 fold) below the densities found in the raw wastewater (Table 3). These processes may include the following:~~

~~1. Anaerobic digestion. A process whereby the biosolids are maintained in an anaerobic environment for a period of no more than 60 days at 20°C or no more than 15 days at 35°C, resulting in a volatile solids reduction of less than 38%.~~

~~2. Aerobic digestion. A process of agitating biosolids with air or oxygen to maintain aerobic conditions for a period of more than 40 days at 20°C or no more than 60 days at 15°C, resulting in a volatile solids reduction of less than 38%.~~

~~3. Air drying. A process whereby partially digested or Alkaline conditioned (pH greater than 10.5) sludge or septage is allowed to drain or dry on an underdrained surface or media, or in lined basins, in which the biosolids layer is 24 inches thick or less. The process requires a minimum drying time of three months and a residual solids content of 20% or more must be provided in the biosolids cake.~~

~~4. Lagoon storage. A process whereby partially digested or lime conditioned (pH greater than 10.5) sludge or septage is stored in lined lagoons for a period of 90 days or more at a temperature exceeding 0°C, and a dewatered biosolids is produced.~~

~~5. Alkaline treatment. A process whereby sufficient alkaline additive is blended with a mixture of primary/secondary sludge with more than 50% waste activated biosolids by weight, to produce a pH of 12 after two hours of contact.~~

E. D. Additional treatment methods to provide disinfection of treated biosolids. Pathogen treatment processes may be enhanced by providing additional treatment methods to eliminate parasitic worms and ova (EH process sequence). Any of the processes listed below, if added to stabilization processes described previously, will further lower pathogens. Because these processes, when used alone, do not reduce nuisance odors and the attraction of vectors, they are considered to be supplementary to typical stabilization and pathogen treatment processes.

1. Beta Ray Irradiation. A process involving the irradiation of biosolids with beta rays at dosages of at least one megarad at 2°C.

2. Gamma Ray Irradiation. A process involving the irradiation of biosolids with gamma rays from certain isotopes, such as 60Cobalt and 137Cesium, at dosages of at least 1.0 megarad at 20°C.

F. E. Vector attraction reduction parameters. One of the appropriate vector attraction reduction requirements shall be achieved and Class A or B pathogen control obtained when bulk biosolids are applied to agricultural land, forest, a public contact site, reclamation site, lawn or home gardens. One of the appropriate vector attraction reduction requirements shall be met when Class A biosolids are sold or given away in a bag or other container for application to the land. The following operational methods will achieve the necessary vector attraction reduction requirements:

1. The mass of volatile solids in the biosolids shall be reduced by a minimum of 38% (see calculation procedures in "Environmental Regulations and Technology - Control of Pathogens and Vector Attraction in Biosolids", EPA-625/R-92/013, 1992, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268).

2. When the 38% volatile solids reduction cannot be met for an anaerobically digested biosolid, vector attraction reduction can be demonstrated by digesting a portion of the originally digested biosolids anaerobically in the laboratory in a bench-scale unit for 40 additional days at a temperature between 30°C and 37°C. When at the end of the 40 days, the volatile solids in the biosolids at the beginning of that period is reduced by less than 17%, adequate vector attraction reduction is considered demonstrated for the originally digested biosolids.

3. When the 38% volatile solids reduction requirement cannot be met for an aerobically digested biosolid, vector attraction reduction can be demonstrated by digesting a portion of the originally digested biosolids that has a percent solids of 2.0% or less aerobically in the laboratory in a bench-scale unit for 30 additional days at 20°C. When at the end of the 30 days, the volatile solids in the biosolids at the beginning of that period is reduced by less than 15%, adequate vector attraction reduction is considered demonstrated for the originally digested biosolids.

4. The specific oxygen uptake rate (SOUR) for biosolids treated in a Class III or better aerobic process shall be equal to or less than 1.5 milligrams of oxygen per hour per gram of total solids (dry weight basis) at a temperature of 20°C.

5. Biosolids shall be treated in a Class III or better aerobic process for 14 days or longer. During that time, the temperature of the biosolids shall be higher than 40°C and the average temperature of the biosolids shall be higher than 45°C.

6. The pH of treated biosolids shall be raised to 12 or higher by alkaline addition and, without the addition of more alkaline material, shall remain at 12 or higher for two hours and then at 11.5 or higher for an additional 22 hours. Alkaline stabilization of untreated biosolids shall be evaluated on a case-by-case basis.

7. The percent solids of treated biosolids that does not contain unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 75% based on the moisture content and total solids prior to mixing with other materials.

8. The percent solids of treated biosolids that contains unstabilized solids generated in a primary wastewater treatment process shall be equal to or greater than 90% based on the moisture content and total solids prior to mixing with other materials.

9. For biosolids that are surface applied and incorporated, or injected, below the surface of the land:

a. No significant amount of the biosolids shall be present on the land surface within one hour after the biosolids are injected.

b. When the biosolids that are injected below the surface of the land are Class A with respect to pathogens, the biosolids shall be injected below the land surface within eight hours after being discharged from the pathogen treatment process.

c. Biosolids applied to the land surface shall be incorporated into the soil within six hours after application to or placement on the land.

d. When biosolids that are incorporated into the soil are Class A with respect to pathogens, the biosolids shall be applied to or placed on the land within eight hours after being discharged from the pathogen treatment process.

10. The pH of untreated domestic septage applied to land shall be raised to 12 or higher by alkaline addition and, without the addition of more alkaline material, shall remain at 12 or higher for 30 minutes prior to application.

12 VAC 5-585-570. Site access time restrictions.

A. Unrestricted access (UA). Biosolids that have undergone Class I Treatment to achieve Class A Pathogen Control may be applied or incorporated into the soil of agricultural lands and immediate public access is permitted. A waiting period is required up to 30 days following application (to allow adhering biosolids to be washed from the foliar portion of the plants by precipitation). This waiting period is required before: (i) crops are harvested for human consumption, (ii) domestic animals are allowed to graze on the site.

B. Restricted access (RA). Following application or incorporation of biosolids that have undergone Class II treatment to achieve Class B Pathogen Control public access and crop management shall be restricted as follows: (i) access to any site with a high potential for contact with the ground surface (public use) by the general public shall be controlled for a minimum time period of one year, (ii) access to agricultural sites and other sites with a low potential for public exposure shall be controlled for 30 days, (iii) food crops with harvested parts that touch the biosolids/soil mixture and are not totally above the land surface shall not be harvested for 14 months, (iv) food crops with harvested parts below the surface of the land shall not be harvested for 20 months following application, when the biosolids remain on the land surface for four months or longer prior to incorporation into the soil, (v) food crops with subsurface harvested parts shall not be harvested for 38 months following application, when the biosolids remain on the land surface less than four months prior to incorporation, (vi) feeding of harvested crops to animals shall not take place for a total of one month following surface application (two months for lactating dairy livestock), (vii) grazing by animals

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whose products will or will not be consumed by humans is prevented for at least 30 days (60 days for lactating dairy livestock) [, and (viii) harvesting turf grass for placement on land with a high potential for public exposure or a lawn is prevented for 12 months].

~~C. Rigidous Restricted Access (RRA). Following application to the surface or incorporation into soil Class B biosolids that have undergone Class III pathogen reduction processes, public access and crop management shall be restricted as follows: (i) public access is controlled for 18 months or more on public use sites, (ii) public access is controlled for 60 days on agricultural sites and other sites with a low potential for direct contact with the ground surface, (iii) crops for direct human consumption cannot be grown within 24 months, (iv) food crops with harvested parts that touch the biosolids/soil mixture, but are totally above the land surface, shall not be harvested for 18 months, (v) food crops with harvested parts below the surface of the land shall not be harvested for 26 months after application when the biosolids remain on the land surface up to 4 months or more prior to incorporation into the soil, (vi) food crops with subsurface harvested parts shall not be harvested for 42 months when the biosolids remain on the land surface less than 4 months prior to incorporation, (vii) other food crops, feed crops and fiber crops shall not be harvested for 30 days, (viii) grazing is prevented for two months for animals whose products are consumed by humans. For sites receiving frequent applications of Class III biosolids site restrictions shall include:~~

- ~~1. Access controlled by trespass resistant fencing in all except those remote sites not accessible to the public.~~
- ~~2. Warnings posted of hazard and intent to prosecute trespassers. Warning signs must be posted at least 90 inches in area with lettering at least 0.5 inch in size in conspicuous places every 100 feet in wooded or heavily vegetated areas and every 500 feet in open areas.~~
- ~~3. Procedures in place for minimizing inadvertent transport of biosolids or septage from the site by staff, contaminated equipment or animals (e.g., washing of contaminated articles, animals or equipment when leaving a site).~~
- ~~4. Site buffers separating operations by 500 feet or more from residences or other concentrations of human activity.~~
- ~~5. Nonpoint source pollution to surface waters prevented through soil conservation plans, vegetation belts, or other best management practices.~~

~~D. C. Modified Access (MA). If a biosolids processing sequence is used to treat PSRP or PSLP biosolids that eliminates or inactivates helminth eggs (EH), public use access restrictions are reduced to six and eight months respectively, which shall include two summer months. A summary listing of access restrictions is presented in Table 10.~~

12 VAC 5-585-590. Maximum application rates for trace elements.

The maximum cumulative application of cadmium and other biosolids borne ~~metals~~ trace elements to soils used for crop production is summarized in Table 9. Parameters other than those listed in Tables 8, 9 and 14 can be used to evaluate the application rate of biosolids in accordance with current EPA technical regulations. Exceptional Quality Biosolids applied to lawns or home gardens in residential areas shall be of such quality so as to conform with the pollutant levels specified in Table 8-B.

12 VAC 5-585-610. Maximum application rates for phosphorus.

Biosolids use operations involving high application rates of phosphorus may involve additional monitoring requirements (12 VAC 5-585-400) for permit issuance. Submission of additional information may be requested for any proposed biosolids use sites exhibiting very high soil test phosphorus of 55 or more parts per million parts phosphorus (Mehlich 1 analytical test procedure or equivalent). The Virginia Department of Conservation and Recreation may require the preparation of a complete nutrient management plan or a soil conservation plan, as appropriate, if such sites exhibit a significant erosion potential based on site soils and topography. The division will request such information from the Virginia Department of Conservation and Recreation and the required plans shall be completed prior to any biosolids use operations on that site.

TABLE 8
A. RECOMMENDED CEILING POLLUTANT LIMITS FOR THE TRACE METAL ELEMENT CONTENT OF BIOSOLIDS ACCEPTABLE FOR LAND APPLICATION

POLLUTANT TRACE ELEMENT	CONCENTRATION IN MILLIGRAMS PER KILOGRAMS (DRY WEIGHT)
Arsenic	75
Cadmium	85
Chromium	3000
Copper	4300
Lead	840
Mercury	57
Molybdenum	75
Nickel	420
Selenium	32 100
Zinc	7500
Cadmium/Zinc Ratio (if cadmium equals or exceeds 21 mg/kg)	1.5%

B. MAXIMUM MONTHLY AVERAGE POLLUTANT TRACE ELEMENT CONCENTRATIONS FOR APPLICATION OF EXCEPTIONAL QUALITY BIOSOLIDS TO LAWNS OR HOME GARDENS IN RESIDENTIAL LOCATIONS

POLLUTANT TRACE ELEMENT	CONCENTRATION IN MILLIGRAMS PER KILOGRAMS (DRY WEIGHT)
Arsenic (1)	41±(4)
Cadmium	24 39
Chromium	1200
Copper	1500
Lead	300
Mercury	17
Molybdenum (1)	41±(4)
Nickel	420
Selenium	32 100
Zinc	2800

Note: (1) The monthly average concentration is currently under study by USEPA as USDA has identified that these levels were unnecessarily low due to incomplete evaluation of data. The standard may be increased up to 54 mg/kg based on the 98 percentile levels in typical Biosolids as identified in NSSS.

TABLE 9
MAXIMUM CUMULATIVE APPLICATION OF BIOSOLIDS BORNE METALS TRACE ELEMENTS THAT CAN BE APPLIED TO SOILS USED FOR CROP PRODUCTION(1)

Metal Trace Element	Kg/ha	(lbs/AC)
Arsenic (2)	41	(36)
Cadmium	24 39	(18) (35)
Chromium	3,000	(2,680)
Copper	1,500	(1,340)
Lead	300	(270)
Mercury	17	(16)
Molybdenum (2)	44	(36)
Nickel	420	(375)
Selenium	32 100	(29) (89)
Zinc	2,800	(2,500)

Note: (1) Such total applications to be made on soils with the Biosolids/soil mixture pH adjusted to 6.0 or greater if the Biosolids cadmium content is greater than or equal to 21 mg/kg.

The maximum cumulative application rate is limited for all ranges of cation exchange capacity due to soil background pH in Virginia of less than 6.5, and lack of regulatory controls of soil pH adjustment after Biosolids application ceases.

(2) The maximum cumulative application may be increased in accordance with the results of USEPA recommendations at a later date is currently under study by USEPA.

TABLE 10
COMPARISONS OF TIME RESTRICTIONS FOLLOWING COMPLETION OF BIOSOLIDS APPLICATION ASSOCIATED WITH CLASS II AND CLASS III TREATMENT LEVELS

Treatment Classification	II (PSRP)	III (PSLP)	II (PSRP)	III (PSLP)
Type of Application	Surface ⁽¹⁾	Surface ⁽¹⁾	Incorporated ⁽²⁾	Incorporated ⁽²⁾
Control of Access for Public Use ⁽³⁾	12 Months	18 Months	12 Months	12 Months
Time lapse required before above ground food crops with harvested parts that touch the biosolids/soil mixture can be harvested.	14 Month	18 Months	14 Months	18 Months
Time lapse before food crops with harvested parts below	20 Months	26 Months	38 Months	42 Months

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the land surface can be harvested

Harvesting food crops, feed crops and fiber crops

1 Month

1 Month

1 Month

1 Month

Grazing and feeding harvested crops to animals whose products are consumed by humans⁽⁴⁾

1 Month

2 Months

1 Month

2 Months

Grazing or feeding harvested crops to *of farm* animals whose products are not consumed by humans

1 Month

1 Month

1 Month

1 Month

Harvesting turf for placement on land with a high potential for public exposure or a lawn⁽⁵⁾

12 Months

12 Months

12 Months

12 Months

Note: ⁽¹⁾ remains on land surface for four (4) months or longer prior to incorporation

⁽²⁾ remains on land surface for less than four (4) months prior to incorporation

⁽³⁾ public access to agricultural sites and other sites with a low potential for direct contact with the ground surface shall be controlled for 30 days for sites receiving application of Class II treated biosolids and up to 60 days or more following application of Class III treated biosolids.

⁽⁴⁾ the restriction for lactating dairy cows is two (2) months

⁽⁵⁾ this time restriction must be met unless otherwise specified by the permitting authority

TABLE 11: NITROGEN REQUIREMENTS FOR AGRONOMIC RATES

A. RECOMMENDED PLANT AVAILABLE NITROGEN (PAN) APPLICATION RATES IN POUNDS OF NITROGEN (N) PER ACRE FOR VARIOUS NON-IRRIGATED CROPS GROWN ON SOILS RECEIVING INFREQUENT BIOSOLIDS APPLICATIONS⁽¹⁾

Crop	Soil Productivity Group									
	I		II		III		IV		V	
	A	B	A	B	A	B	A	B		
	lbs N/acre									
Corn grain or silage	160 to 180	150 to 170	140 to 160	130 to 150	120 to 140	110 to 130	100 to 120	85 to 105	65 to 85	
Grain sorghum	140	130	120	110	100	95	90		80	
Full Season Soybeans ⁽²⁾	160 to 180	150 to 170	140 to 160	130 to 150	120 to 140	110 to 130	100 to 120	85 to 105	65 to 85	
Canola ⁽³⁾	100		90		80		60		60	
Wheat	100		90		80		60		60	
Barley	90		80		80		60		60	
Rye	75		75		75		75		75	

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Oats	80	80	80	60	60
Tallgrass hay ⁽⁴⁾	250	250	200	160	160
Bermudagrass hay	300	300	260	210	210
Pasture Fescue/ Orchardgrass ⁽⁵⁾	120	120	100	80	80
Bermudagrass pasture	200	200	160	120	120
Alfalfa	300	300	210	150	150
Sudangrass, sudanmerghum sudan- sorghum, millet ⁽⁶⁾	70	70	70	70	70
Stockpiled tall fescue (summer application by August 31)	90	90	90	60	60

Notes: ⁽¹⁾ For proposed use of crops or PAN rates (lbs/A) not included in the following tables, adequate yield and PAN Data are to be submitted in accordance with 12 VAC 5-585-140 G (and Part IV) of these regulations.

⁽²⁾ For doublecrop or late beans planted after 6/21, (of any year,) allowable PAN rates are the lowest of the listed values, as rounded to nearest factor of ten.

⁽³⁾ For Fall Application Rate may sidedress up to 60 lbs fertilizer N/acre in late February before spring growth begins.

B. ESTIMATED YIELDS IN BUSHELS (bu) OR TONS (T) PER ACRE(A) OF VARIOUS NONIRRIGATED CROPS FOR IDENTIFIED SOIL PRODUCTIVITY GROUPS

Crop	I		II		III		IV		V
	A	B	A	B	A	B	A	B	
Corn									
Grain(bu/A)	160	150	140	130	120	110	100	85	65
Silage (T/A)	21	20	19	18	17	16	15	13	10
Grain Sorghum (bu/A)	140	130	120	110	100	90		90	80
Soybeans Soybeans (bu/A)									
Early season	50	45		40		35		25	20
Late season ⁽⁷⁾	40	34	34	30		25		18	15
Canola ⁽⁸⁾	UNDETERMINED AT THIS TIME								
Wheat(bu/A)									
Standard		64		56		48		40	24
Intensive		80		70		60		50	30
Barley(bu/A)									
Standard		110		70		60		50	30
Intensive		115		88		75		63	38
Oats		80		80		80		60	60
Tallgrass hay (T/A)		>4.0	3.5-4.0	3-3.5		<3.0		NA	NA
Bermudagrass hay (T/A)		>6.0		4.0-6.0		<4.0		NA	NA
Alfalfa (T/A)		>6.0		4.0-6.0		<4.0		NA	NA

Notes: ⁽⁴⁾ Apply listed PAN rate when application occurs between 3/1 and 9/30 in any year and apply only one-half of listed PAN rates if application will occur between 10/1 of any year and 2/28 of the following year, with remaining PAN applied after 3/1 of that following year.

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⁽⁵⁾ For frequent applications apply 60 lbs PAN/acre per year. Following infrequent application rate, subsequent frequent applications should be adjusted on a case-by-case basis, accounting for residual from other wastes and crops (Part IV, Table A-2).

⁽⁶⁾ Sudangrass, *sudan-sorghum* *sudan-sorghum* and pearl millet may receive a PAN rate of 120 lbs/A if the application occurs between 3/1 and 6/1 of any year and two cuttings are to be made, weather permitting. For Foxtail or German Millet, cut only once, application will be limited to a PAN rate of 70 LBS/A.

⁽⁷⁾ Late season beans would be planted on or after 6/21 of that year.

⁽⁸⁾ Sufficient Yield Data not currently available.

C. RESIDUAL PLANT AVAILABLE NITROGEN (PAN) REMAINING FROM GROWTH OF VARIOUS LEGUMES DURING THE PREVIOUS YEAR ⁽⁹⁾

Crop	%Stand	Yield Description	Residual Pan (lbs/A)
Alfalfa	50-75	Good (>4T/A)	90
	25-49	Fair (3-4T/A)	70
	<25	Poor (<3T/A)	50
Red Clover	>50	Good (>3T/A)	80
	25-49	Fair (2-3T/A)	60
	<25	Poor (<2T/A)	40
Hairy Vetch	80-100	Good	100
	50-79	Fair	75
	<50	Poor	50
Peanuts			45
Soybeans			20(10)

Notes: ⁽⁹⁾ The Residual PAN values must be subtracted from the PAN values listed in Table A of this section to determine Biosolids Application rates following growth of Legume Crops the previous year.

⁽¹⁰⁾ Where yield data is available utilize 0.5 pounds per bushel.

TABLE 12

A. ESTIMATED NITROGEN MINERALIZATION RATES FOR BIOSOLIDS

Biosolids Type	Years After Application		
	First	Second	Third
Lime Stabilized	0.30	0.15	0.07
Aerobic digestion	0.30	0.15	0.08
Anaerobic digestion ⁽¹⁾	0.20 ⁽²⁾	0.10	0.05
Composted ⁽³⁾	0.10	0.05	0.03

NOTE: ⁽¹⁾ Typical anaerobically digested municipal biosolids should be characterized by a total volatile solids fraction of 55 percent % or less total organic nitrogen of 4.0 percent % or less and an ammonia nitrogen content of 1.0 percent % or less.

⁽²⁾ The mineralization rate may be increased up to a value of 0.3 in accordance with the degree of stabilization achieved.

⁽³⁾ Biosolids compost should be characterized by a total organic nitrogen content of 2.0 percent % or less and no significant ammonia nitrogen.

B. ESTIMATED AMMONIA NITROGEN VOLATILIZATION RATES FOR BIOSOLIDS

Management Practice	Percent Ammonia Volatilized	
	Biosolids pH Less than 10	Biosolids pH Greater than 10
Injection below surface	0	0
Surface application with/		
--Incorporation within 24 hours	15	25
--Incorporation within 1-7 days	30	50
--Incorporation after 7 days	50	75

TABLE 13

A. ORGANIC CHEMICAL TESTING THAT MAY BE REQUIRED TO IDENTIFY AN EXCEPTIONAL QUALITY BIOSOLIDS

Organic Chemicals
 Aldrin/dieldrin (total)
 Benzo (a) pyrene
 Chlordane
 DDT/DDE/DDD (total) ⁽¹⁾

- Dimethyl nitrosamine
- Heptachlor
- Hexachlorobenzene
- Hexachlorobutadiene
- Lindane
- Polychlorinated biphenols
- Toxaphene
- Trichloroethylene

NOTE:

- (1) DDT 2,2 - Bis (chlorophenyl) - 1,1,1 - Trichloroethane
- DDE 1,1 - Bis (chlorophenyl) - 2,2 - Dichloroethane
- DDD 1,1 - Bis (chlorophenyl) - 2,2 - Dichloroethane

B. THE RECOMMENDED APPLICATION RATE FOR DOMESTIC SEPTAGE APPLIED TO AGRICULTURAL LAND, FOREST, OR A RECLAMATION SITE SHALL NOT EXCEED THE ANNUAL APPLICATION RATE CALCULATED USING THE FOLLOWING EQUATION:

$$AAR = N / (0.0026)$$

Where:

AAR = Annual application rate in gallons per acre per 365 day period.

N = Amount of nitrogen in pounds per acre per 305 day period needed by the crop or vegetation grown on the land.

TABLE 14

A. RECOMMENDED LIME APPLICATION RATES NEEDED TO ADJUST INITIAL SOIL pH TO 6.5 FOR THE LOWER COASTAL PLAINS SOILS.

Initial Soil pH	Soil Type*	
	Sandy Coarse Textured	Loamy Fine Textured
	Lime, Tons/AC	
4.8	3.5	4.5
5.0	3.0	3.75
5.5	1.75	2.5
6.0	1.25	1.5
6.3	0.75	1.0

B. RECOMMENDED LIME APPLICATION RATES NEEDED TO ADJUST INITIAL SOIL pH TO 6.8 FOR [MIDDLE AND UPPER SOILS LOCATED OUTSIDE THE] COASTAL [PLAINS SOILS PLAIN].

Initial Soil pH	Soil Type*	
	Sandy Coarse Textured	Loamy Fine Textured
	Lime, Tons/AC	
4.8	4.25	5.75
5.0	4.0	5.25
5.5	3.0	4.0
6.0	2.0	2.75
6.5	1.25	1.5

NOTE: "Sandy Coarse textured soils" include those surface soils designated by USDA USDA-SCS soil classification as "sandy loam" or lighter in texture; loamy "fine textured soils" include those classified as having textures heavier than sandy loam.

12 VAC 5-585-630. Operation plan (to be made available for field use and farmer/owner information).

A. Comprehensive, general description of the operation including biosolids source(s), quantities, flow diagram illustrating treatment works biosolids flows and solids handling units, site description, crops utilized, application rates, methodology of biosolids handling for application periods, including storage and nonapplication period storage, and alternative management methods when storage is not provided. Information in accordance with a nutrient management plan as approved by the Department of Conservation and Recreation shall be submitted for: (i) all frequent at agronomic application sites; and (ii) all frequent below agronomic application sites. The nutrient management plan information shall also be submitted for proposed application sites owned or operated in conjunction with operations in which: (i) domestic livestock have been, are, or will be stabilized or confined and fed or maintained for a total of 45 days or more in any 12-month period; and (ii) crops, vegetation, forage growth or post-harvest residues are not sustained over any portion of the operation site. The approved nutrient management plan shall account for all sources of nutrients to be applied to the site and include at a minimum the following information: (i) a site map indicating the location of any waste storage facilities and the fields where biosolids will be applied; (ii) site evaluation and assessment of soil types and potential productivities; (iii) nutrient management sampling including soil monitoring; (iv) biosolids application rates based on the overall nutrient requirements of the proposed crop and soil monitoring results; and (v) biosolids and other nutrient source application schedules and land area requirements.

B. Biosolids transport.

1. Description and specifications on the bed or the tank vehicle.
2. Haul routes to be used from the biosolids generator to the storage unit and land application sites.
3. Procedures for biosolids off-loading at the biosolids facilities and the land application site together with spill prevention, cleanup, (including vehicle cleaning), field reclamation and emergency spill notification and cleanup measures.
4. Voucher system used for documentation and record keeping.

C. Field operations.

1. Storage.
 - a. Routine storage - supernatant handling and disposal, biosolids handling, and loading of transport vehicles, equipment cleaning, freeboard maintenance, inspections for structural integrity.

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b. Emergency storage - procedures for department/board approval and implementation.

c. Temporary storage - procedures to be followed including either designated site locations provided in the "Design Information" or the specific site criteria for such locations including the liner/cover requirements and the time limit assigned to such use.

d. Field reclamation of off-loading areas.

2. Application methodology.

a. Description and specifications on spreader vehicles.

b. Procedures for calibrating equipment for various biosolids contents to ensure uniform distribution and appropriate loading rates on a day-to-day basis.

c. Procedures used to ensure that operations address the following constraints: Application of biosolids to frozen ground, pasture/hay fields, crops for direct human consumption and saturated or ice/snow covered ground; maintenance buffer zones, slopes, prohibited access for beef and dairy animals, soil pH requirements, and proper site specific biosolids loading rates on a field-by-field basis.

12 VAC 5-585-640. Recordkeeping.

A. Monitoring and testing requirements for biosolids, groundwater, soil and surface water including sample frequency, methods and locations of sampling and analytical methods/laboratory facilities to be utilized. Procedures for daily acquisition and recording of all necessary data including all necessary forms must be fully described.

B. Reporting requirements, as specified by issued certificates, permits or other approvals, will be fully described to ensure timely submission of all such reports.

C. Records related to data and information specified in agreements between generator, owner, agents, landowners and farmers shall be described and maintained for a minimum period of five years or the duration of the certificate or permit or subsequent revisions, if longer than five years.

TABLE A-1 BIOSOLIDS APPLICATION AGREEMENT

This Biosolids application agreement is made on between, referred to here as "landowner," and, referred to here as "owner."

Landowner is the owner of agricultural land shown on the map attached as Exhibit A and designated there as ("landowner's land"). Owner agrees to apply and landowner agrees to comply with certain permit requirements following application of Biosolids on landowner's land in amounts and in a manner authorized by permit number which is held by the owner.

Landowner acknowledges that the appropriate application of Biosolids will be beneficial in providing fertilizer and soil

conditioning to his property. Moreover, landowner acknowledges that he has been expressly advised that, in order to protect public health:

1. Public access to landowner's land upon which Biosolids has been applied should be controlled for at least 30 days (~~60 days for Class III treatment biosolids which remain on the land surface for a time period of four (4) or more months~~) following any application of biosolids and no biosolids amended soil shall be excavated or removed from the site during this same period of time unless adequate provisions are made to prevent public exposure to soil, dusts or aerosols;

2. Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface shall not be harvested for 14 months (~~18 months for Class III treatment biosolids~~) after the application of biosolids. Food crops with harvested parts below the surface of the land shall not be harvested for 20 months (~~26 months for Class III treatment biosolids~~) after the application of biosolids when the biosolids remain on the land surface for a time period of four (4) or more months prior to incorporation into the soil, or 38 months (~~42 months for Class III treatment biosolids~~) when the biosolids remain on the land surface for a time period of less than four (4) months prior to incorporation. Other food crops, feed crops and fiber crops shall not be harvested for 30 days after the application of biosolids;

3. Following biosolids application to pasture or hayland sites, meat producing livestock should not be grazed or fed chopped ~~foliage~~ *foliage* for 30 days (~~60 days for Class III treatment biosolids~~) and lactating dairy animals should be similarly restricted for a minimum of 60 days. Other animals should be restricted from grazing for 30 days;

4. Supplemental commercial fertilizer or manure applications should be coordinated with the Biosolids applications such that the total crop needs for nutrients are not exceeded as identified on the nutrient balance sheet (Table A-2) or the nutrient management plan approved by the Virginia Department of Conservation and Recreation to be supplied to the landowner by the owner at the time of application of Biosolids to a specific permitted site;

5. Tobacco, because it has been shown to accumulate cadmium, should not be grown on landowner's land for three years following the application of biosolids borne cadmium equal to or exceeding 0.45 pounds/acre (0.5 kilograms/hectare);

6. Turf grown on land where biosolids are applied shall not be harvested for one year after application of biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the permitting authority.

Owner agrees to notify landowner or landowner designee of his proposed schedule for Biosolids application and

specifically prior to any particular application to landowner's land. This agreement may be terminated by either party upon written notice to the address specified below.

By:.....
Mailing Address: Mailing Address
.....

Landowner: Owner:

TABLE A-2
EXAMPLE OF A NUTRIENT BALANCE SHEET

		Field: Acres:			
		Crop Needs	Biosolids Supplied	Balance Needed From Fertilizer	
Year	Crop	N-P ₂ O ₃ -K ₂ O P ₂ O ₅	N-P ₂ O ₃ -K ₂ O P ₂ O ₅	N-P ₂ O ₃ -K ₂ O P ₂ O ₅	Notes
1992	Corn	140-50-80	140-70-10	0-0-70	1.
1993	Wheat- Soybeans	100-90-140	70-90-0	30-0-140	2.,3.

NOTES:

- 1 The supplied information above should be used as a guide to coordinate manure and/or fertilizer applications if needed with the biosolids supplied nutrients. Crop needs are based upon Virginia Tech recommendations for your soil sample results and the predominant (10% or more of acreage) soil series in your field.
- 2 Significant residual nitrogen and phosphorus is supplied by biosolids in the second year following application.
- 3 Apply 140 pounds potash in fall or winter to small grain, apply 30 pounds nitrogen to small grain in late winter or early spring if needed.

TABLE A-3
SLUDGE DISPOSAL SITE DEDICATION

....., a Virginia Corporation, does dedicate that tract or parcel of real estate situated, lying and being in County, Virginia, more particularly described by deed and plat of survey of record in Deed Book, pages,, and, of the Clerk's Office of the Circuit Court of County, Virginia, and being the identical real estate which said corporation acquired by grant with General Warranty of Title and Modern English Covenants from Said dedication being to establish the aforesaid area for the disposal of sewage sludge only, and that said sludge disposal site will not be used for human habitation, grazing land for domestic animals or for agricultural purposes, and will not be accessible to the public. The full interest and control of the foresaid area dedicated shall remain with the and this instrument is solely for the purpose of assuring the Department of Health and the Water Control Board of the Commonwealth of Virginia as to the matters hereinabove set forth. WITNESS the following signatures and seal this day of, 19....

BY:..... ATTEST:
State of
County of

The foregoing instrument was acknowledged before me this day of, 19...., by of a corporation, on behalf of the corporation

Notary Public

My Commission Expires.....
.....
For use of Clerk of Court

This Sludge Disposal Site Dedication Document, as described above, was recorded in Deed Book page... on the day of, 19....

SIGNED: of the Circuit Clerks Office

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FORMS

Application for a Biosolids Use Construction or Operation Permit, 1997.

Biosolids Use/Treatment Works Construction Permit, 1997.

Biosolids Use/Treatment Works Operation Permit, 1997.


COMMONWEALTH OF VIRGINIA
Department of Health
Division of Wastewater Engineering
Biosolids Use/Treatment Works Construction Permit

_____ is Hereby Granted Permission to Construct
a Biosolids Use/Treatment Works that will consist of _____

and that will have a Design Capacity of _____

at _____ Located in _____
(city, town, and/or county)

In Accordance with the Provisions of Title 32.1, Chapter 6, Article 2, Section 32.1-164, Code of Virginia As Amended and ~~Section 51-17~~ of the Biosolids Use Regulations of the Virginia Department of Health As Amended. This Permit is in accordance with the Department's approval of Plans, Specifications and Other Documents as follows:

Project Description Sheet Attached () Yes () No

PERMIT NO. _____ RECOMMENDED _____
Director, Division of Wastewater Engineering
EFFECTIVE DATE _____ RECOMMENDED _____
Director, Office of Water Programs
APPROVED _____
State Health Commissioner


COMMONWEALTH OF VIRGINIA
Department of Health
Division of Wastewater Engineering
Biosolids Use/Treatment Works Operation Permit

_____ is Hereby Granted Permission to Operate
a Biosolids Use/Treatment Works Having a Design size or Capacity of _____

At _____
(Attach List of Approved Sites)

Located in _____
(city, town, and/or county)

In Accordance with the Provisions of Title 32.1, Chapter 6, Article 2, Section 32.1-164, Code of Virginia As Amended and ~~Section 51-20~~ of the Biosolids Use Regulations of the Virginia Department of Health as Amended. This Permit is in accordance with the Department's approval of Plans, Specifications and Other Documents as follows:

And With The Understanding That _____ Will Operate
the ~~Gewerage-System~~ Biosolids Use/Treatment Works in Accordance With ~~Section 51-25~~ of the Biosolids Use
Regulations of the Virginia Department of Health As Amended.

Engineering Description Sheet Attached () Yes () No

PERMIT NO. _____ RECOMMENDED _____
Director, Division of Wastewater Engineering
EFFECTIVE DATE _____ RECOMMENDED _____
Director, Office of Water Programs
APPROVED _____
State Health Commissioner

APPLICATION FOR A BIOSOLIDS USE CONSTRUCTION OR OPERATION PERMIT

For Department Use Only

Commonwealth of Virginia
 Department of Health
 Env. Engineering Field Office: _____
 Health Department
 Identification No.: _____
 Date Received: _____

Type of System(1) or Works: NEW UPGRADE MODIFICATIONS

Owner:

Name: _____

Street or Mailing Address: _____

City _____ State _____ Zip Code _____

Phone No.: (Area Code) _____

Authorized Representative:

Name: _____

Street or Mailing Address: _____

City _____ State _____ Zip Code _____

Phone No.: (Area Code) _____

Consulting Engineer:

Name of Firm: _____

Project Engineer: _____

Street or Mailing Address: _____

Phone No.: (Area Code) _____

Project Description:

Permit No.: _____

INTERIM

FINAL

DATE ISSUED: _____ EXPIRATION DATE: _____

System(1) Works Biosolids Source(s): _____

Location of Operations: _____

City: _____ County: (2) _____
 (attach listing of sites if applicable)

Total acreage involved: _____

Total annual amount of Biosolids from each source: _____ (2)

Type of treatment for pathogen control for each source (if applicable): _____

Process Description including supernatant management: _____ (2)

Treatment Certification:

Owner(s) of Biosolids Source/Treatment Works: _____

Phone # _____

Street or Mailing Address: _____

City _____ State _____ Zip Code _____

Yes No A statement indicating that a proper class of Biosolids treatment will be provided for this project has been issued by the owner(s) of the Biosolids Source/Treatment Works and is attached (Biosolids Use Regulation).

 (Name, Title and Signature of Official Representative Applicant)

Note: (1) Including sites proposed for land application of biosolids.
 (2) List on separate attachment if applicable.

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MILK COMMISSION

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

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

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

Effective Date: October 15, 1997.

Summary:

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

The existing guidelines are repealed and new guidelines adopted.

The new regulation defines, clarifies, and standardizes regulation terms. It more clearly designates the purpose of the regulation and incorporates procedures for the composition and maintenance of mailing lists of interested parties and the distribution of same. The regulation includes procedures to petition for rule making; notices of intended regulatory action; notices 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.

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 Edward C. Wilson, Jr., State Milk Commission, 200 North Ninth Street, Suite 1015, Richmond, VA 23219, telephone (804) 786-2013.

CHAPTER 11.

PUBLIC PARTICIPATION GUIDELINES.

2 VAC 15-11-10. Definitions.

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

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

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

"Agency" means the State Milk Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

Distributions shall be done as economically and expeditiously as possible.

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

2 VAC 15-11-50. Petition for rule making.

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

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

- 1. The petitioner's name, mailing address, telephone number, and, if applicable, the organization represented in the petition.*

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

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

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

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

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

B. The NOIRA shall state [~~when and where~~ that] a public hearing will be scheduled.

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

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

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

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

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

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

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

A. The approving authority shall conduct a public hearing on regulations subject to the provisions of § 9-6.14:7.1 of the Administrative Process Act during the 60-day comment

period following the publication of a proposed regulation or amendment to an existing regulation. Procedures for conducting such hearings will be the same as those provided in 2 VAC 15-20-120.

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

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

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

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

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

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

The approving authority may appoint an ad hoc committee to assist in the review and development of regulations for the commission. The ad hoc committee may be comprised of any individual who the approving authority believes can offer constructive input or any individuals who have expressed an interest in regulatory promulgation.

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

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

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

VA.R. Doc. No. R97-762 and R97-761; Filed August 27, 1997, 11:45 a.m.

Title of Regulation: 2 VAC 15-20-10 et seq. Regulations for the Control and Supervision of Virginia's Milk Industry (amending 2 VAC 15-20-10, 2 VAC 15-20-30, 2 VAC 15-20-50, 2 VAC 15-20-60, 2 VAC 15-20-90, 2 VAC 15-20-100, 2 VAC 15-20-110, 2 VAC 15-20-120 and 2 VAC 15-20-130; adding 2 VAC 15-20-21 and 2 VAC 15-20-125; repealing 2 VAC 15-20-20).

Statutory Authority: § 3.1-430 of the Code of Virginia.

Effective Date: October 15, 1997.

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Summary:

The regulation details those areas of the Commonwealth that are exempt from the regulation, establishes delivery and acceptance requirements, establishes procedures for licensing, specifies reporting and recordkeeping requirements, provides for rules of practice, establishes procedures for assessments levied against licensees for support of the commission, and establishes procedures for public hearings.

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

1. A new provision is allowed for temporary licensing;
2. The license classification "subdistributor" is eliminated;
3. Licensees are given the option of filing reports with the commission in a variety of different formats;
4. Cooperative associations of producers are required to file separate monthly reports with the commission regarding daily deliveries and all billings;
5. Restrictions on paid milk carton advertising are eliminated;
6. Several new exemptions are established for "below cost selling";
7. Hearing procedures are revised to allow interested parties to become a party to the proceedings and to "conduct cross examination of witnesses upon written request" if the request is received not less than five days prior to the hearing;
8. The definition of base deliveries is modified to include individual producers' deliveries;
9. The definition of Class II is changed to delete the provision of bulk milk sales used in commercial cooking and baking and allow sales in any container size used for the same purpose to be classified as Class II;
10. The United States Department of Agriculture Milk Marketing Order System is added as an authoritative resource in the classification of fluid milk products as Class I products; and
11. The City of Salem is added to the cities included in the western market.

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 Edward C. Wilson, Jr., State Milk Commission, 200 North Ninth Street, Suite 1015, Richmond, VA 23219, telephone (804) 786-2013.

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

2 VAC 15-20-10. Definitions.

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

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

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

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

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

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

"Assigned daily base" means the lesser of:

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

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

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

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

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

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

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

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

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

"Commission" means the State Milk Commission of Virginia.

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

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

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

"Delivery period" means the calendar month.

"Distributor" means any of the following persons engaged in the business of distributing, marketing, or in any manner handling fluid milk, in whole or in part, in fluid form for consumption person selling, marketing, or distributing milk or milk products other than at retail in this the Commonwealth of Virginia [: .]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~These rules and regulations (2 VAC 15-20-10 et seq.) shall apply to all markets unless otherwise expressly stated.~~

~~However, they shall not apply to any person in any market keeping two cows or less on his premises where such person sells only that milk produced by such cows and delivery thereof is made on his premises in containers furnished by the purchaser.~~

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

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

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

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

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

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

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

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

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

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

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

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

1. Producers shipping on a daily basis shall deliver in each delivery an amount of milk at least equal to their daily base, if produced. Producers shipping on an every other day basis shall deliver in each delivery an amount of milk at least equal to twice their daily base, if produced.
2. Deliveries other than in accordance with subdivision 1 ~~above of this subsection~~ shall be subject to the pricing procedures of ~~of~~ 2 VAC 15-20-80 A 4.

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

1. Producers shall deliver within a delivery period an amount of milk at least equal to their base, if produced, and the *processing general* distributor concerned shall accept such deliveries.
2. A cooperative association operating under the provisions of 2 VAC 15-20-40 D 1 a shall deliver within a delivery period an amount of milk at least equal to the aggregated base of its members which is assigned and the *processing general* distributor concerned shall accept such deliveries.
3. Cooperative associations operating under the provisions of 2 VAC 15-20-40 D 1 a shall not be required to make daily deliveries in quantities less than the full volume of tankers that are currently in use by the cooperative associations.

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

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

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

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

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

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

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

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

C. Applications for license shall be reviewed and investigated for accuracy by the agency. The administrator shall hold an informal conference with the applicant and any interested parties for the purpose of determining the accuracy of the information submitted and to clarify any issues involving the application for license. These conferences shall be held in a manner prescribed by the administrator.

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

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

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

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~~processing general distributor receive, pasteurize, process and package under a specified label or trade name (other than that of the processing general distributor) producer milk in fluid form for consumption within the Commonwealth of Virginia.~~

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

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

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

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

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

~~Retail distributor licenses are classified as those granted to all other persons engaged in the business of a "distributor." All such persons shall be considered to be licensed by the commission, unless and approving authority until this license is expressly suspended or revoked; however, no formal certificate of license is required or will be issued unless a properly executed application for such license is filed with the commission approving authority.~~

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

- ~~1. That the action is in the public interest.~~
- ~~2. That 1. The applicant or licensee is not qualified by character, or experience, or financial responsibility, or equipment or personnel to properly conduct the business.~~
- ~~3. That 2. The applicant or licensee has made a false statement or inaccurate report of a material fact to the commission approving authority.~~

~~4. That 3. The applicant or licensee is insolvent, has made a general assignment for the benefit of creditors or that has a money judgement judgment has been secured against him upon which execution has been returned wholly or partly unsatisfied.~~

~~5. That 4. The applicant or licensee has violated any provision or provisions of this chapter.~~

~~6. That 5. The purpose of the application for any type of license is to circumvent any established prices promulgated by the commission approving authority.~~

~~7. That 6. The applicant for a processing general distributor license or a licensed processing general distributor does not have facilities adequate to handle assigned milk from licensed producers.~~

~~8. That the processing general distributor licensee has not maintained facilities adequate to handle assigned milk from licensed producers.~~

~~9. That 7. The licensee has rejected assigned milk without reasonable cause.~~

~~10. That 8. The licensee has failed to account for or make payment for assigned milk.~~

~~11. That 9. The licensee has failed to keep records or furnish information required.~~

~~12. That 10. Any requisite health permit has been suspended, terminated or revoked.~~

~~13. That 11. The licensee has ceased to operate.~~

~~14. That 12. The licensee's responsible and authorized representatives of the licensee refuse to appear and testify as to their knowledge of the operations of the licensee.~~

~~E. All G. Licenses issued to general distributors, sub-distributors and other distributors are not transferable and shall remain in effect until surrendered, suspended or revoked by the commission approving authority.~~

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

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

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

1. The amount, source, grade, butterfat test and price paid for all milk and cream received from all sources.

These records must show daily transactions, summarized into monthly totals.

2. The use or disposition of all milk and cream received from all sources. These records must show retail, wholesale and other sales by units and the value received for each group of units shown as daily transactions, summarized into monthly totals.

3. The butterfat tests of each producer's milk made pursuant according to this chapter, the date such tests were made and the butterfat test of each commodity sold.

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

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

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

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

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

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

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

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

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

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

The following rules of practice shall be observed:

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

2. Established wholesale and retail prices.

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

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

3. ~~Except as provided in subdivision 4 below, (2)~~ Wholesale prices, ~~when established by the commission,~~ shall apply to sales of milk products by processing general distributors, producer general distributors or ~~subdistributors~~ where such milk products are distributors resold for consumption, whether on or off the premises, and shall apply to sales made by general distributors or ~~subdistributors~~ all licensed distributors to hotels, restaurants, stores, licensed boarding houses, vending machine operators and other operations which have a sales tax exemption certificate as set forth in § 58.1-623 of the Code of Virginia.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

However, the approving authority may grant an exemption for charitable purposes when requested in writing. Also, transactions involving milk handling equipment to any governing body of any municipality, county or state; to the federal government or any

agency operated by the preceding; or to colleges, universities or schools (elementary or secondary, public or private) are exempted from these requirements.

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

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

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

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

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

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

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

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

(d) The net container cost.

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

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

(2) The ~~presumptive~~ presumed cost for Class I items delivered to wholesale accounts shall be the product of the total platform cost as set forth in subdivision [

~~G (1)~~ above 3 g (1) of this section, multiplied by the following percentages:

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

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

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

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

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

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

(3) ~~In lieu~~ Instead of the cost determination as set forth in subdivisions (1) and (2) of this subdivision, a licensee may substitute his costs provided they can be justified to the ~~commission's~~ agency's satisfaction. When ~~seeking to make~~ making such a justification, the licensee shall have the burden of proof on all issues, and shall employ the accounting procedures set forth in the Fluid Milk Products Cost Manual, March 1, 1979, prepared by Case and Company, Inc., for the Virginia State Milk Commission.

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

4. Processing general distributor, producer general distributor, and distributor sales to a governing body of any municipality, county or state, or the federal government, or colleges, universities and schools, both

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public and private, are specifically exempt from the below cost and other provisions of this section, provided the sales are classified as Class I for the purpose of producer payments, except those sales made on federal reservations and the processing general distributor, producer general distributor or distributor has been licensed by the approving authority to distribute milk products in the market concerned.

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

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

6. Retail distributors.

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

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

~~b.~~ A retail distributor shall not combine the pricing or sale of milk with any other commodity, product, or service regardless of the cost, ~~if any~~, to the distributor of ~~such~~ the commodity, product, or service for the purpose of circumventing the below cost provisions of this chapter.

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

~~d.~~ Other provisions of this chapter notwithstanding, no distributor shall be prohibited from meeting a lawful

competitive price for like products below his cost as determined by the provisions of this chapter provided:
~~(1)~~ a written statement is filed with the commission giving the following information prior to meeting that price:

~~(a)~~ (1) The name and address of the distributor licensee offering the competitive price he anticipates meeting, ~~and;~~

~~(b)~~ (2) The exact price necessary to meet competition, ~~and;~~

~~(c)~~ (3) The effective date of the competitive price he anticipates meeting, ~~and;~~

~~(d)~~ (4) The effective date of his price necessary to meet the competitor's price; ~~and;~~

~~(e)~~ (5) [Does A statement that he will] not at anytime sell or offer to sell at a price that is less than the competitor's price.

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

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

a. Sales promotions, advertisements, or coupon offers are submitted to the agency in writing for the administrator's approval;

b. The effect of the promotion, advertisement or coupon is not to circumvent the below cost provisions of this chapter;

c. The promotion, advertisement, or coupon offer does not involve any distributor paying for the cost of any part of the promotion, advertisement, or coupon which results in circumvention of below cost prohibition; and

d. The promotion, advertisement, or coupon does not involve any practice or practices which may substantially lessen competition in or substantially increase the cost of milk.

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

2 VAC 15-20-110. Assessments.

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

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

1. ~~For the purpose of defraying the expenses of the commission an assessment~~ Assessments shall be collected from all licensed general processing distributors, producer general distributors, and distributors in an amount as directed by the ~~commission~~ approving authority. Assessments shall not exceed five cents per hundredweight on all milk, or cream (converted to terms of milk) handled by distributors and ~~five cents per hundredweight of milk, or cream (converted to terms of milk) and/or sold by producers and cooperative associations of producers; said.~~ These assessments shall be the same per hundredweight on producers and distributors.
2. Within 15 days ~~subsequent to~~ after the close of a delivery period, all licensed general processing distributors, producer general distributors, and distributors shall remit to the ~~commission~~ agency an amount equal to the total assessments levied for the delivery period, including both the assessment levied on ~~the distributor distributors and the producers and/or cooperative associations of producers.~~ The amount of production assessment paid to the credit of producers or cooperative associations of producers by a distributor shall be ~~charged~~ credited against the amount payable to producers and/or cooperative associations of producers by said distributor.

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

A. Notice of proceedings under § 3.1-437 of the Code of Virginia shall be provided as set out in this subsection. ~~The commission shall cause to be published~~ approving authority may publish in a newspaper of general circulation ~~within the City of Richmond~~ a notice which shall inform the public generally of the proceeding contemplated and the time, date, and place of the public hearing. ~~If the subject of the hearing will affect only limited areas of the state, the commission shall publish notice of the hearing in newspapers of general circulation within those areas. The commission shall publish the notice at least 14 days prior to the holding of the hearing.~~ The administrator is directed to give such other notice as he deems appropriate, including notice to ~~baseholding producers and distributors persons on the distribution list who would be affected by the commission's approving authority's order.~~

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

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

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

A. The official transcript of the public hearing conducted by the ~~commission~~ approving authority shall be the transcript of the ~~stenographic notes~~ taken at the public hearing by a court reporter employed by the ~~commission~~ agency. ~~If the hearing is held pursuant to its emergency provisions and if a court reporter is available, the administrator shall direct that notes be made of the hearing and be preserved for public inspection. The commission shall make available~~ The official transcript or ~~written notes~~ of any public hearing will be available from the court reporter to the public at cost.

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

1. The chairman of the commission shall call the public hearing to order and thereafter shall give, or cause to be given (i) the general nature of the hearing and the statutory authority for it; (ii) introduction into the record of a copy of the notice stating the time, place, date or dates such notice was given, and the method whereby it was served; (iii) the presentation of the evidence.
2. Unless otherwise directed by the ~~commission~~ approving authority, or unless provided for under special rules governing the particular case, evidence and testimony will ordinarily proceed in the following order, followed by such rebuttal evidence as may be necessary and proper: (i) the commission's staff; (ii) producers or their representatives; (iii) distributors or their representatives; (iv) consumers.

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

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

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

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

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

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

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

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

DOCUMENTS INCORPORATED BY REFERENCE

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

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

VIRGINIA MILK COMMISSION
RICHMOND, VIRGINIA

APPLICATION FOR DISTRIBUTORS' LICENSE

TO THE VIRGINIA MILK COMMISSION: DATE RECEIVED BY SMC: _____

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

Business Location: _____ Phone: _____

Mailing address (if different): _____ Fax: _____

(Check one) Individual Partnership Cooperative Other Corporation

NAME OF OFFICERS, DIRECTORS OR PARTNERS TITLES ADDRESS

NAME OF OFFICERS, DIRECTORS OR PARTNERS	TITLES	ADDRESS

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

SMC-1
Rev 11-1-95



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

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

APPLICATION FOR DISTRIBUTORS' LICENSE

Name of Applicant: _____

Trading As: _____

Address: _____

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

Type of License Requested (check one)

Processing General Distributor

Non-Processing General Distributor

Sub-Distributor

LICENSE REQUESTED FOR ALL VIRGINIA MARKET SALES AREAS

Information to be Supplied by Virginia Milk Commission

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

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

Number of years applicant has operated this business: _____ years

Sales Disposition:

Retail Wholesale Contractual Own Outlets

U.S. Government Other _____

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

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

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

(Yes, No, Not Applicable) _____

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

State Federal None

Order currently regulated under

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

TO BE COMPLETED BY PROCESSING GENERAL DISTRIBUTOR APPLICANTS ONLY:

Packaging under the following brand names

Manufacturing: (✓)

Starter Ice Cream I/C Mix Cottage Cheese

Creamers Half & Half X Cream XX Cream

Dips Sour Cream Yogurt Egg Nog

Fruit Drinks & Juices Other: _____

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

Bulk gallons Gallons Half-gallons Quarts Pints

Ten-ounce 1/2 pints Other _____

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

Bulk gallons Gallons Half-gallons Quarts Pints

Ten-ounce 1/2 pints Other _____

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

Bulk gallons Gallons Half-gallons Quarts Pints

Ten-ounce 1/2 pints Other _____

TO BE COMPLETED BY PROCESSING AND SUB DISTRIBUTOR APPLICANTS:

Milk to be processed by:

NAME _____

ADDRESS _____

Is applicant currently licensed in the following Virginia Milk Commission Markets: _____ Yes or No

Applicant will distribute under the following name brands: _____

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

Bulk Gallons Gallons Half-Gallons Quarts

Pints Ten-ounce 1/2 Pints Other _____

TO BE COMPLETED BY ALL APPLICANTS:

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

Yes No

1. Is the applicant qualified by character, experience, financial responsibility and equipment to properly function as a distributor licensee? _____

2. Is the applicant solvent and is it a fact that the applicant has never made a general assignment for the benefit of creditors? _____

3. Is it a fact that the applicant has never had a judgment secured against it upon which execution _____

24. Has the applicant ever applied to the Virginia Milk Commission for a distributor's License? _____

25. Does the applicant agree to advise the commission in writing if any of the major information substantially changes? _____

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

Applicant _____

By: _____
Signature of authorized representative

DATE _____

TITLE _____

Phone Number: _____

Fax Number: _____

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

State of _____ County of _____

On this _____ day of _____, 19 _____

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

My Commission Expires _____ Notary Public _____

4. Is the applicant aware that the Virginia Milk Commission has promulgated and published Rules and Regulations for the Control, Regulations and Supervision of the Milk Industry in Virginia? _____

5. Has the applicant read the current Rules and Regulations of the Commission? _____

6. Does the applicant agree to abide by all the Rules and Regulations of the Commission. _____

7. Is the applicant aware of the Commission regulation regarding monthly reporting of receipts, sales and other utilization? _____

8. Is the applicant aware of the Commission requirement that a monthly assessment of Virginia Class I product sales in Virginia controlled markets will be payable by the 15th of the month following the month of sales? _____

9. Is the applicant aware of the promulgated regulations entitled rules of practice and their provisions? _____

10. Is the applicant aware of circumstances under which the licensee can be suspended or cancelled as provided for in the regulations? _____

11. Are all statements, reports and representations which have been, or may be, made by the applicant to the Commission true and accurate? _____

12. Does the applicant agree to accept the assignment of base and to accept delivery of milk in accordance with the Rules and Regulations? _____

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

13. Is it a fact that the applicant has never ceased to operate? _____

14. Is it a fact that the applicant has all requisite health permits and that no such health health permits have ever been suspended, terminated, or revoked? _____

15. Is it a fact that the applicant has never violated any of the Rules and Regulations of the Commission? _____

16. Is it a fact that the applicant has never failed to keep record or furnish information information required? _____

17. Is it a fact that the applicant has never rejected producers' milk without reasonable cause? _____

18. Is it a fact that the applicant has never failed to account and make payment? _____

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

19. Does the applicant possess all requisite health permits? _____

20. Does the applicant agree to keep records and furnish required information? _____

21. Does the applicant agree not to reject producers' milk without reasonable cause? _____

22. Does the applicant agree to account and make payments? _____

23. Does the applicant agree to make assessment payments? _____

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

BUTTERFAT CONTENT (PERCENT)	GALLONS	1/2 GAL (LBS)	QUARTS (LBS)	PINTS	10 OZ (LBS)	1/2 PTS. (LBS)
FLAVORED	8.000000	4.000000	2.000000	1.000000	0.525000	0.520000
0-0.99	8.630000	4.315000	2.157500	1.078750	0.674221	0.539393
1.00-2.99	8.620000	4.310000	2.155000	1.077500	0.673441	0.539750
3.00-4.99	8.600000	4.300000	2.150000	1.075000	0.671881	0.537500
5.00-8.99	8.580000	4.290000	2.145000	1.072500	0.670311	0.536250
9.00-13.99	8.550000	4.275000	2.137500	1.068750	0.667971	0.534381
14.00-18.99	8.510000	4.255000	2.127500	1.063750	0.664841	0.531881
19.00-22.99	8.480000	4.240000	2.120000	1.060000	0.662250	0.530000
23.00-26.99	8.450000	4.225000	2.112500	1.056250	0.660161	0.528131
27.00-28.99	8.430000	4.215000	2.107500	1.053750	0.658891	0.526881
29.00-30.99	8.410000	4.205000	2.102500	1.051250	0.657703	0.525881
31.00-32.99	8.400000	4.200000	2.100000	1.050000	0.656250	0.525000
33.00-34.99	8.390000	4.195000	2.097500	1.048750	0.655571	0.524381
35.00-36.99	8.370000	4.185000	2.092500	1.046250	0.653911	0.523131
37.00-38.99	8.360000	4.180000	2.090000	1.045000	0.653113	0.522500
39.00-40.99	8.350000	4.175000	2.087500	1.043750	0.652341	0.521881
41.00-42.99	8.330000	4.165000	2.082500	1.041250	0.650781	0.520631
43.00-44.99	8.320000	4.160000	2.080000	1.040000	0.650000	0.520000
45.00-46.99	8.300000	4.150000	2.075000	1.037500	0.648441	0.518750
47.00-48.99	8.290000	4.145000	2.072500	1.036250	0.647661	0.518131
49.00-50.99	8.280000	4.140000	2.070000	1.035000	0.646981	0.517500

SMC-7A
 REV 11-86

VIRGINIA STATE MILK COMMISSION
 ADMINISTRATION OF CLASS SALES
 Proceeds from Other Classes

Month/Year

Location #	Product	Unit	Weight	Volume	Product	Unit	Weight	Volume
	Home	1/2 Gall	4.315000	2.157500	1/2 Gall	4.315000	2.157500	2.157500
	Lowfat	1/2 Gall	4.310000	2.155000	1/2 Gall	4.310000	2.155000	2.155000
	Skim	1/2 Gall	4.300000	2.150000	1/2 Gall	4.300000	2.150000	2.150000
	Choc	1/2 Gall	4.290000	2.145000	1/2 Gall	4.290000	2.145000	2.145000
	Choc	1/2 Gall	4.275000	2.137500	1/2 Gall	4.275000	2.137500	2.137500
	Choc	1/2 Gall	4.255000	2.127500	1/2 Gall	4.255000	2.127500	2.127500
	Choc	1/2 Gall	4.240000	2.120000	1/2 Gall	4.240000	2.120000	2.120000
	Choc	1/2 Gall	4.225000	2.112500	1/2 Gall	4.225000	2.112500	2.112500
	Choc	1/2 Gall	4.215000	2.107500	1/2 Gall	4.215000	2.107500	2.107500
	Choc	1/2 Gall	4.205000	2.102500	1/2 Gall	4.205000	2.102500	2.102500
	Choc	1/2 Gall	4.200000	2.100000	1/2 Gall	4.200000	2.100000	2.100000
	Choc	1/2 Gall	4.195000	2.097500	1/2 Gall	4.195000	2.097500	2.097500
	Choc	1/2 Gall	4.185000	2.092500	1/2 Gall	4.185000	2.092500	2.092500
	Choc	1/2 Gall	4.180000	2.090000	1/2 Gall	4.180000	2.090000	2.090000
	Choc	1/2 Gall	4.175000	2.087500	1/2 Gall	4.175000	2.087500	2.087500
	Choc	1/2 Gall	4.165000	2.082500	1/2 Gall	4.165000	2.082500	2.082500
	Choc	1/2 Gall	4.160000	2.080000	1/2 Gall	4.160000	2.080000	2.080000
	Choc	1/2 Gall	4.150000	2.075000	1/2 Gall	4.150000	2.075000	2.075000
	Choc	1/2 Gall	4.145000	2.072500	1/2 Gall	4.145000	2.072500	2.072500
	Choc	1/2 Gall	4.140000	2.070000	1/2 Gall	4.140000	2.070000	2.070000

PRODUCTION OF FORTIFIED AND RECONSTITUTED PRODUCTS (MONTHLY SUMMARY)

INGREDIENTS	Apparent Sum	Fortified 8.0%	Fortified 12.0%	Fortified 16.0%	Product	Receipts	% Sum Condensed	% Liquid Condensed	Evaporated Cream	Dry Condensed	Sugar	Dextrose	Starch	Other
Skim Milk Powder														
Whole Milk Powder														
Water														
Starch														
Sugar														
Other														
TOTAL														

RECONCILIATION OF PRODUCTS OTHER THAN FLUID MILK PRODUCTS UTILIZED

Receipts	% Sum Condensed	% Liquid Condensed	Evaporated Cream	Dry Condensed	Sugar	Dextrose	Starch	Other
Receipts								
Evaporated Cream								
Dry Condensed								
Sugar								
Dextrose								
Starch								
Other								
TOTAL								

UTILIZATION

Receipts	% Sum Condensed	% Liquid Condensed	Evaporated Cream	Dry Condensed	Sugar	Dextrose	Starch	Other
Receipts								
Evaporated Cream								
Dry Condensed								
Sugar								
Dextrose								
Starch								
Other								
TOTAL								

VIRGINIA STATE MILK COMMISSION MONTHLY REPORT OF RECEIPTS AND UTILIZATION

SAC-75m
11-96

CONTACT PERSON: _____ PHONE NO.: _____
 LICENSEE: _____ REPORT MONTH/YEAR: _____
 ADDRESS: _____ LICENSE NO.: _____

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

Prepared by: _____ Date: _____

CLASS I SALES Market:

Product	Unit	Processor	Processor	Total	Conversion	Product	Fat
				Units	Factor	Pounds	Pounds
Homo (M.V.D.)	1/2 Gal.						
B.F. Test	Quarts						
Lowfat	1/2 Pts.						
B.F. Test	Quarts						
Lowfat	1/2 Gal.						
B.F. Test	Quarts						
Skim	1/2 Gal.						
B.F. Test	Quarts						
Butter Milk	1/2 Gal.						
B.F. Test	Quarts						
Choc Milk	1/2 Gal.						
B.F. Test	Quarts						
TOTAL							

VA.R. Doc. No. R97-760; Filed August 27, 1997, 11:45 a.m.

VIRGINIA MUSEUM OF FINE ARTS

REGISTRAR'S NOTICE: The Virginia Museum of Fine Arts is exempt from the Administrative Process Act in accordance with § 9-6.14:4.1 A 6 of the Code of Virginia, which exempts educational institutions operated by the Commonwealth.

Title of Regulation: 8 VAC 103-10-10 et seq. **Museum and Grounds Use and Access.**

Statutory Authority: § 23-253.4 of the Code of Virginia.

Effective Date: August 25, 1997.

Summary:

This regulation requires all parties or individuals not having contracted for use of the museum, museum grounds, or its other properties to obtain a permit for use from the museum. Such permit shall be requested 10 days prior to the desired use date. The regulation also requires compliance with Virginia law and sets forth bases for denial and revocation of the use permit.

Agency Contact: Copies of the regulation may be obtained from William F. Dillon, Department of Human Resources, Virginia Museum of Fine Arts, 2800 Grove Avenue, Richmond, VA 23221-2466, telephone (804) 367-6280.

CHAPTER 10.

MUSEUM AND GROUNDS USE AND ACCESS.

8 VAC 103-10-10. Definitions.

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

"Museum" means the Virginia Museum of Fine Arts.

"Museum building" means, but is not limited to, the primary building and any additions housing the Virginia Museum of Fine Arts, its collections, office spaces and assembly spaces.

"Museum grounds" means property including but not limited to streets, driveways, sidewalks, gardens, parking lots, and other open spaces deemed to be owned or otherwise controlled by the Virginia Museum of Fine Arts.

"Other properties" means, but is not limited to, any structures, storage facilities, garages, and classroom facilities not included in the "museum building" definition deemed to be owned or otherwise controlled by the Virginia Museum of Fine Arts.

8 VAC 103-10-20. Authority and application.

A. This regulation is established in accordance with § 23-253.4 of the Code of Virginia.

B. This regulation shall apply to the general public; to all public and private organizations, parties, or movements; and to all employees of the museum, the museum foundation, the council shop, and TheatreVirginia.

8 VAC 103-10-30. Procedures.A. *Public service hours.*

1. *Museum building.* Unless otherwise posted, the public exhibition areas of the museum building shall be open to the public from 11 a.m. each morning until 5 p.m. in the evening, Tuesday through Sunday, except for Thursday when closing will be at 8 p.m. These opening/closing times do not apply to members of the public attending functions or programs in the museum which are sponsored by the museum or are held at the museum pursuant to contract with the museum such as TheatreVirginia performances, "Fast Forward," and "Jumpin." Opening/closing times will be posted throughout the building. Unauthorized persons found on the premises after the posted closing times will be subject to arrest and prosecution.

2. *Museum grounds.* The grounds of the museum shall be open to the public from sunrise to sunset each day, except that the museum parking lots shall be open to members of the public attending approved functions or programs at the museum in the evening after sunset. Unauthorized persons found on the grounds during times other than the public service hours specified in this chapter will be subject to arrest and prosecution.

3. *Other properties.* The public service hours of other properties of the museum shall be posted on those properties. Unauthorized persons found on these other properties during times other than the posted public service hours will be subject to arrest and prosecution.

B. *Prohibited activities.* No soliciting, pamphleteering, assemblages or the displaying of flags, banners, or devices designed or adapted to bring into public notice any party, organization, or movement shall be permitted within the museum, its grounds or other properties except as provided herein.

C. *Exceptions.* With the approval of the director, the prohibitions set forth in subsection B of this section may be suspended by the Deputy Director for Administration to permit meetings, gatherings, or assemblages and the displaying of flags, banners, or devices if, in the deputy director's discretion, (i) the general enjoyment and use of the museum building, its grounds and other properties are not impaired, (ii) the public visiting the museum or attending an approved function is not disrupted, and (iii) the security or condition of the collection or the welfare, health, and safety of tourists, visitors and persons performing various duties on the premises are not endangered.

D. *Permit required.* Assemblages, meetings or functions which are not sponsored by the museum or which are not held at the museum pursuant to a contract with the museum require a permit. Requests for permits for assemblages, meetings, or functions by any party, organization, movement or other private group must be in writing, must be submitted to the Deputy Director for Administration at least 10 working

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days prior to the requested date, and must contain the following information:

1. Name of organization, date of origin, status (corporation, unincorporated association, partnership, nonprofit corporation, etc.) and name and address of registered agent, if a corporation.
 2. Name, title within the organization, permanent address, occupation and telephone number of the individual member who shall be responsible for the conduct of the meeting or function.
 3. Statement as to the approximate number of members or other persons who will attend.
 4. Date and specific period of time requested (from.....to.....).
 5. Purpose of meeting or function, to include names and titles of speakers, if any.
- E. Parking lots and walkways. Except for approved functions, the vehicular drives and parking lots within the museum grounds must remain open and the pedestrian walkways must afford reasonable movement of pedestrians at all times during public service hours.
- F. Denial of permit. Requests for meetings or functions of organizations shall be denied if, after proper inquiry, the deputy director determines that the proposed event will constitute a clear and present danger to the orderly functioning of the museum and use of the museum building, its grounds or other properties by the public because of the advocacy of (i) the violent overthrow of the government of the United States, the Commonwealth of Virginia, or any political subdivision thereof; (ii) the willful damage or destruction, or seizure and subversion, of the museum building, its grounds or other property; (iii) the forcible disruption or impairment of or interference with the regularly scheduled functions of the museum; (iv) the physical harm, coercion, intimidation or other invasion of lawful rights of officials of the museum or members of the public; or (v) other disorders of a violent nature.
- G. Violation of Virginia law. The deputy director may refuse authorization for the use of the museum building, its grounds or other property, if there is reason to believe that the organization requesting a permit is organized, functioning, or conducting business in violation of Virginia law.
- H. Written approval. Authorization for the use of the museum building, its grounds or other property [7] will be set forth in a letter addressed to the individual named in subdivision D 2 of this section. Such authorization will automatically include all sections set forth above, together with any other specific stipulations or procedures that may be necessary at the time.
- I. Revocation of permit. Violations of this policy may result in immediate revocation of the permit by the deputy director or his duly appointed representative, and in the event such

revocation occurs, all participants shall be required to leave the museum building, its grounds or other property forthwith.

VA.R. Doc. No. R97-746; Filed August 25, 1997, 2:43 p.m.

COMMONWEALTH TRANSPORTATION BOARD

REGISTRAR'S NOTICE: The following regulation was filed by description with the Registrar of Regulations in accordance with § 2.3 of the Virginia Code Commission Regulations Implementing the Virginia Register Act. Section 2.3 of the Virginia Code Commission Regulations allows the Registrar to authorize the filing of a regulatory document by description in lieu of filing the entire text pursuant to criteria identified in that section.

Title of Regulation: 24 VAC 30-250-10 et seq. ~~Location and Design Division's Procedures Manual Guidelines for the Procurement and Management of Professional Services.~~

Statutory Authority: § 33.1-12 (2) and (7) of the Code of Virginia.

Effective Date: August 19, 1997.

Exemptions Claimed:

This regulation is exempt from the Administrative Process Act pursuant to § 9-6.14.4.1 B 2 of the Code of Virginia, which exempts agency action relating to the award or denial of state contracts. Subdivision 2 f of § 2.3 of the Virginia Code Commission Regulations allows regulations concerning public contracts to be filed by description subject to the authorization of the Registrar of Regulations.

Description:

This manual has been prepared to promote uniformity in the method of procuring professional services by the Virginia Department of Transportation as set forth in the Departmental Policy Memoranda 6-1 and 6-3 and the Virginia Public Procurement Act (§ 11-35 et seq. of the Code of Virginia). The Virginia Public Procurement Act defines a professional service as "work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering."

This manual is intended to serve as an informational and procedural guide and shall be used in conjunction with the Code of Virginia and the Departmental Policy Memoranda 6-1 and 6-3 and applicable department/divisional regulations. The figures, tables and charts (located in appendices by chapter) included within this manual are intended as the basic framework and examples of documents necessary to conform with the appropriate policies, and each division may require different or additional letters or charts.

Starting on March 1, 1997, the Administrative Services Division will assume an oversight role in the process used to contract for professional services. There are changes in this revision to the manual which will describe their new responsibility.

Document available for inspection at the following location:

Virginia Department of Transportation
Administrative Services Division
Memorial Hospital Building
1201 East Broad Street, 1st Floor
Richmond, VA 23219

VA.R. Doc. No. R97-733; Filed August 19, 1997, 9:43 a.m.

STATE WATER CONTROL BOARD

Title of Regulation: 9 VAC 25-194-10 et seq. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Car Wash Facilities.

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

Effective Date: October 15, 1997.

Summary:

The State Water Control Board has adopted a general VPDES permit for car wash discharges. This regulatory action sets forth standard language for effluent limitations and monitoring requirements necessary to regulate this category of discharges under the VPDES permit program. The general permit consists of limitations and monitoring requirements on discharges to surface waters for the following parameters: flow, estimate gpd; pH, 6.0 min, 9.0 max; total suspended solids, 60 mg/l max; and oil and grease, 15 mg/l max. The monitoring frequency varies depending upon the average flow rate. The regulation also sets forth the minimum information requirements for all requests for coverage under the general permit.

Several changes were made to the regulation after it was published for public comment. Language was added to the regulation as required by Executive Order 13 (94) and § 9-6.14.4.1 C of the Administrative Process Act. In 9 VAC 25-194-70, the permit language in Part II (Monitoring and Reporting) and Part III (Management Requirements) was replaced with new language. Additional changes were made to the regulation based on the comments received during the public comment period, including a requirement for additional information to provide to owners of MS4s, such as the name of the facility, a contact person and phone number, and the location of the discharge.

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 George Cosby, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240-0009, telephone (804) 698-4067.

CHAPTER 194.

GENERAL VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT FOR CAR WASH FACILITIES.

9 VAC 25-194-10. Definitions.

The words and terms used in this chapter shall have the meanings defined in the State Water Control Law and 9 VAC 25-31-10 et seq. (VPDES Permit Regulation) unless the context clearly indicates otherwise, except that for the purposes of this chapter:

["~~Board~~" means the ~~State Water Control Board~~.]

"Car wash" means any manual, automatic or self-service facility where the washing of vehicles including cars, vans and pick-up trucks is conducted as designated by SIC 7542. It includes auto dealer preparation and detailing, and fleet vehicle washing. It does not mean facilities that wash or steam clean engines [~~and heavy equipment, or tractor-trailer and bus washing or tanker cleaning~~, buses, tankers or tractor-trailers].

["~~Department~~" means the ~~Virginia Department of Environmental Quality~~.

"~~Director~~" means the ~~Director of the Virginia Department of Environmental Quality, or an authorized representative~~.]

9 VAC 25-194-20. Purpose.

This general permit regulation governs the discharge of wastewater from car wash facilities to surface waters.

9 VAC 25-194-30. Delegation of authority.

The director, or an authorized representative, may perform any act of the board provided under this chapter, except as limited by § 62.1-44.14 of the Code of Virginia.

9 VAC 25-194-40. Effective date of the permit.

This general permit will become effective on [~~*****~~, ~~199*~~ October 15, 1997]. This general permit will expire five years after the effective date. This general permit is effective for any covered owner upon compliance with all the provisions of 9 VAC 25-194-50 and the receipt of this general permit.

9 VAC 25-194-50. Authorization to discharge.

A. Any owner governed by this general permit is hereby authorized to discharge to surface waters of the Commonwealth of Virginia provided that the owner files and receives acceptance by the board of the registration statement of 9 VAC 25-194-60, files the required permit fee, complies with the effluent limitations and other requirements of 9 VAC 25-194-70, and provided that:

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1. The owner shall not have been required to obtain an individual permit as may be required in the VPDES permit regulation.

2. The owner shall not be authorized by this general permit to discharge to state waters specifically named in other board regulations or policies which prohibit such discharges.

B. Receipt of this general permit does not relieve any owner of the responsibility to comply with any other federal, state or local statute, ordinance or regulation.

9 VAC 25-194-60. Registration statement.

The owner shall file a complete VPDES general permit registration statement for car wash facilities. Any owner of an existing car wash which is covered by this general permit, who's discharge increases above a monthly average flow rate of 5,000 gallons per day, shall file an amended registration statement at least 30 days prior to commencing operation of the new process. Any owner proposing a new discharge shall file the registration statement at least 30 days prior to the date planned for commencing construction or operation of the new discharge. Any owner of an existing car wash covered by an individual VPDES permit who is proposing to be covered by this general permit shall file the registration statement at least 180 days prior to the expiration date of the individual VPDES permit. Any owner of an existing car wash not currently covered by a VPDES permit who is proposing to be covered by this general permit shall file the registration statement. The required registration statement shall be in the following form:

VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM
GENERAL PERMIT REGISTRATION STATEMENT
FOR CAR WASH FACILITIES

1. APPLICANT INFORMATION:

A. Name of Facility: _____

B. Facility Owner: _____

C. Owner's Mailing Address

a. Street or P.O. Box _____

b. City or Town _____ c. State _____

d. Zip Code _____

e. Phone Number _____

D. Facility Location: _____
Street No., Route No., or Other Identifier

E. Is the operator of the facility also the owner?
___ Yes ___ No
If No, complete F. & G.

F. Name of Operator: _____

G. Operator's Mailing Address

a. Street or P.O. Box _____

b. City or Town _____ c. State _____

d. Zip Code _____

e. Phone Number _____

2. FACILITY INFORMATION:

Will this facility discharge to surface waters? ___ Yes
___ No If yes, name of receiving stream

Does this facility currently have an existing VPDES Permit?
___ Yes ___ No If yes, what is the Permit No.

3. MAP:

Attach a topographic map extending to at least one mile beyond property boundary, indicate location of facility, the discharge and the name of topographic quadrangle.

4. NATURE OF BUSINESS: (provide a brief description of the type of car wash and type of vehicles washed)

5. NUMBER OF CAR WASH BAYS: _____

6. AVERAGE FLOW RATE: (The highest average monthly flow rate measured or estimated to be discharged. For existing facilities calculate the average flow rate by adding the flows for each day during the month that the car wash had a discharge divided by the number of days that the car wash discharged. For new facilities estimate the flow rate based on similar car wash facilities.)

_____ gallons per day

7. FACILITY DRAWING AND TREATMENT INFORMATION:

Attach a line drawing of the car wash showing the source of the water and its flow through the facility. Show all bays. Provide dimensions or capacities for each unit in the treatment system.

8. CHEMICALS USED:

List any chemicals added to the water that may be discharged.

9. CERTIFICATION:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I

am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations.

Signature: _____ Date: _____

Name of person signing above: _____
(printed or typed)

Title: _____

REQUIRED ATTACHMENTS:

- Facility Drawing
- Topographic Map

For Department use only:

Accepted/Not Accepted by: _____
Date: _____

Basin _____ Stream Class _____
Section _____

Special Standards _____

9 VAC 25-194-70. General permit.

Any owner whose registration statement is accepted by the board will receive the following permit and shall comply with the requirements therein and be subject to all requirements of the permit regulation.

General Permit No.: VAG75
Effective Date: *****, 199*
Expiration Date: *****, 200*

GENERAL PERMIT FOR CAR WASH FACILITIES
AUTHORIZATION TO DISCHARGE UNDER THE
VIRGINIA POLLUTANT DISCHARGE ELIMINATION
SYSTEM
AND
THE VIRGINIA STATE WATER CONTROL LAW

In compliance with the provisions of the Clean Water Act, as amended, and pursuant to the State Water Control Law and regulations adopted pursuant thereto, owners of car wash facilities are authorized to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those specifically named in board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Part I - Effluent Limitations and Monitoring Requirements, Part II - [~~Monitoring and Reporting, and Part III - Management Requirements~~ Conditions Applicable to All VPDES Permits], as set forth herein.

PART I.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the

permit's expiration date, the permittee is authorized to discharge wastewater originating from car wash facilities that discharge a monthly average flow rate less than or equal to 5,000 gallons per day from outfall(s) serial number(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/Year	Estimate
pH (S.U.)	6.0*	9.0*	1/Year	Grab
TSS (mg/l)	NA	60	1/Year	5G/8HC
Oil and Grease (mg/l)	NA	15	1/Year	Grab

NL - No Limitation, monitoring requirement only

NA - Not applicable

* Where [~~the Water Quality Standards~~] Part IX (9 VAC 25-260-360 et seq.) [~~establish~~ of the Water Quality Standards establishes] alternate standards for pH, those standards shall be the maximum and minimum effluent limitations.

5G/8HC - Eight Hour Composite - Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.

Samples shall be collected by June 30, and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by the 10th of July of each year.

2. There shall be no discharge of floating solids or visible foam in other than trace amount.

PART I.

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS.

1. During the period beginning with the permittee's coverage under this general permit and lasting until the permit's expiration date, the permittee is authorized to discharge wastewater originating from car wash facilities that discharge a monthly average flow rate greater than 5,000 gallons per day from outfall(s) serial number(s):

Such discharges shall be limited and monitored by the permittee as specified below:

EFFLUENT CHARACTERISTICS	DISCHARGE LIMITATIONS		MONITORING REQUIREMENTS	
	Minimum	Maximum	Frequency	Sample Type
Flow (GPD)	NA	NL	1/6 Months	Estimate
pH (S.U.)	6.0*	9.0*	1/6 Months	Grab
TSS (mg/l)	NA	60	1/6 Months	5G/8HC
Oil and Grease (mg/l)	NA	15	1/6 Months	Grab

NL - No Limitation, monitoring requirement only

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NA - Not applicable

* Where ~~[the Water Quality Standards]~~ Part IX (9 VAC 25-260-360 et seq.) ~~[establishes]~~ of the Water Quality Standards ~~establishes~~ alternate standards for pH, those standards shall be the maximum and minimum effluent limitations.

5G/8HC - Eight Hour Composite - Consisting of five grab samples collected at hourly intervals until the discharge ceases, or until a minimum of five grab samples have been collected.

Samples shall be collected by December 31 and June 30, and reported on the facility's Discharge Monitoring Report (DMR). DMRs shall be submitted by the 10th of the following month - January 10, and July 10.

2. There shall be no discharge of floating solids or visible foam in other than trace amount.

B. Special conditions.

1. The permittee shall perform inspections of the effluent and maintenance of the wastewater treatment facilities at least once per week and document activities on the operational log. This operational log shall be made available for review by the department personnel upon request.

2. No sewage shall be discharged from a point source to surface waters from this facility except under the provisions of another VPDES permit specifically issued for that purpose.

3. There shall be no chemicals added to the water or waste which may be discharged other than those listed on the owner's accepted registration statement, unless prior approval of the chemical(s) is granted by the board.

4. Wastewater should be reused or recycled whenever feasible.

5. The permittee shall comply with the following solids management plan:

a. There shall be no discharge of floating solids or visible foam in other than trace amounts.

b. All settling basins shall be cleaned frequently in order to achieve effective treatment.

c. All solids resulting from the car wash facility covered under this general permit, shall be handled, stored and disposed of so as to prevent a discharge to state waters of such solids.

6. This permit shall be modified, or alternatively, revoked and reissued, to comply with any applicable effluent standard, limitation or prohibition for a pollutant which is promulgated or approved under § 307(a)(2) of the Clean Water Act, if the effluent standard, limitation or prohibition so promulgated or approved:

a. Is more stringent than any effluent limitation on the pollutant already in the permit; or

b. Controls any pollutant not limited in the permit.

7. Washing of vehicles or containers bearing residue of toxic chemicals (fertilizers, organic chemicals, etc.) into the wastewater treatment system is prohibited. If the facility is a self-service operation, the permittee shall post this prohibition on a sign prominently located and of sufficient size to be easily read by all patrons.

8. Any permittee discharging into a municipal separate storm sewer shall notify the owner of the municipal separate storm sewer system of the existence of the discharge within 30 days of coverage under the general permit [and provide the following information: the name of the facility, a contact person and phone number, and the location of the discharge].

[PART II.

MONITORING AND REPORTING.

A. ~~Sampling and analysis methods.~~

~~1. Samples and measurements taken as required by this permit shall be representative of the volume and nature of the monitored activity.~~

~~2. Unless otherwise specified in this permit all sample preservation methods, maximum holding times and analysis methods for pollutants shall comply with requirements set forth in Guidelines Establishing Test Procedures for the Analysis of Pollutants promulgated at 40 CFR Part 136 (1995).~~

~~3. The sampling and analysis program to demonstrate compliance with the permit shall at a minimum, conform to Part I of this permit.~~

~~4. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.~~

~~B. Recording of results. For each measurement or sample taken pursuant to the requirements of this permit, the permittee shall record the following information:~~

~~1. The date, exact place and time of sampling or measurements;~~

~~2. The person(s) who performed the sampling or measurements;~~

~~3. The dates analyses were performed;~~

~~4. The person(s) who performed each analysis;~~

~~5. The analytical techniques or methods used;~~

~~6. The results of such analyses and measurements;~~

~~C. Records retention. All records and information resulting from the monitoring activities required by this permit, including all records of analyses performed and calibration and maintenance of instrumentation and recording from continuous monitoring instrumentation, shall be retained for three years from the date of the sample, measurement or~~

~~report or until at least one year after coverage under this general permit terminates, whichever is later. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.~~

~~D. Additional monitoring by permittee. If the permittee monitors any pollutant at the location(s) designated herein more frequently than required by this permit, using approved analytical methods as specified above, the results of such monitoring shall be included in the calculation and reporting of the values required in the monitoring report. Such increased frequency shall also be reported.~~

~~E. Water quality monitoring. The board may require every permittee to furnish such plans, specifications, or other pertinent information as may be necessary to determine the effect of the pollutant(s) on the water quality or to ensure pollution of state waters does not occur or such information as may be necessary to accomplish the purposes of the State Water Control Law, the Clean Water Act or the board's regulations.~~

~~The permittee shall obtain and report such information if requested by the board. Such information shall be subject to inspection by authorized state and federal representatives and shall be submitted with such frequency and in such detail as requested by the board.~~

~~F. Reporting requirements:~~

~~1. The discharge monitoring reports (DMRs) shall be submitted to the appropriate regional office by January 10th, and July 10th of each year. Those facilities which require once per year monitoring shall submit the DMR for each monitoring year by the 10th of July of each year.~~

~~2. If, for any reason, the permittee does not comply with one or more limitations, standards, monitoring or management requirements specified in this permit, the permittee shall submit to the department's regional office with the monitoring report at least the following information:~~

- ~~a. A description and cause of noncompliance;~~
- ~~b. The period of noncompliance, including exact dates and times or the anticipated time when the noncompliance will cease; and~~
- ~~c. Actions taken or to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.~~

~~Whenever such noncompliance may adversely affect state waters or may endanger public health, the permittee shall submit the above required information by oral report within 24 hours from the time the permittee becomes aware of the circumstances and by written report within five days. The board may waive the written report requirement on a case by case basis if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.~~

~~3. The permittee shall report any unpermitted, unusual or extraordinary discharge which enters or could be expected to enter state waters. The permittee shall provide information specified in Part II G 2 a through e regarding each such discharge immediately, that is as quickly as possible upon discovery, however, in no case later than 24 hours. A written submission covering these points shall be provided within five days of the time the permittee becomes aware of the circumstances covered by this paragraph.~~

~~Unusual or extraordinary discharge would include but not be limited to (i) unplanned bypasses, (ii) upsets, (iii) spillage of materials resulting directly or indirectly from processing operations, (iv) breakdown of processing or accessory equipment, (v) failure of or taking out of service, sewage or industrial waste treatment facilities, auxiliary facilities, or (vi) flooding or other acts of nature.~~

~~This report shall be made to the regional office at (XXX) XXX XXXX. For reports outside normal working hours, a message shall fulfill the reporting requirements. For emergencies, the Virginia Department of Emergency Services maintains a 24 hour telephone service at 1-800-468-8892.~~

~~G. Signatory requirements:~~

~~Any registration statement, report, or certification required by this permit shall be signed as follows:~~

~~1. Registration statement:~~

~~a. For a corporation: by a responsible corporate official. For purposes of this section, a responsible corporate official means (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.~~

~~b. For a municipality, state, federal or other public agency: by either a principal executive officer or ranking elected official. A principal executive officer of a federal, municipal, or state agency includes the chief executive officer of the agency or head executive officer having responsibility for the overall operation of a principal geographic unit of the agency.~~

~~c. For a partnership or sole proprietorship: by a general partner or proprietor respectively.~~

~~2. Reports. All reports required by permits and other information requested by the board shall be signed by:~~

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~~a. One of the persons described in subdivision 1 a, b, or c of this subsection; or~~

~~b. A duly authorized representative of that person. A person is a duly authorized representative only if:~~

~~(1) The authorization is made in writing by a person described in subdivision 1 a, b, or c of this subsection; and~~

~~(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)~~

~~(3) If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization must be submitted to the department prior to or together with any separate information, or registration statement to be signed by an authorized representative.~~

~~3. Certification. Any person signing a document under subdivision 1 or 2 of this subsection shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."~~

~~PART III.~~

~~MANAGEMENT REQUIREMENTS.~~

~~A. Change in discharge of pollutants.~~

~~1. Any permittee proposing a new discharge shall submit a registration statement for a permit at least 30 days prior to the date planned for commencing erection, construction or expansion, or the addition of new processes which will result in a new discharge. There shall be no construction or operation of said facilities prior to the issuance of a permit.~~

~~2. The permittee shall submit a registration statement at least 30 days prior to any planned changes, including proposed facility alterations or additions, production increases, adding new processes or process modifications when:~~

~~a. The planned change to a permitted facility meets one of the criteria for determining whether a facility is a new source; or~~

~~b. The planned change could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are not subject to the notification level requirements in Part III A 3; or~~

~~c. The planned change may result in noncompliance with permit requirements.~~

~~3. The permittee shall promptly provide written notice of the following:~~

~~a. Any reason to believe that any activity has occurred or will occur which would result in the discharge on a routine or frequent basis of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":~~

~~(1) One hundred micrograms per liter (100 ug/l);~~

~~(2) Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2, 4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;~~

~~(3) The level established in accordance with regulation under § 307(a) of the Clean Water Act and accepted by the Director, Department of Environmental Quality.~~

~~b. Any activity has occurred or will occur which would result in any discharge on a nonroutine or infrequent basis of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following "notification levels":~~

~~(1) Five hundred micrograms per liter (500 ug/l);~~

~~(2) One milligram per liter (1 mg/l) for antimony;~~

~~(3) The level established by the Director, Department of Environmental Quality.~~

~~Such notice shall include information on: (1) the characteristics and quantity of pollutants to be introduced into or from such treatment works; (2) any anticipated impact of such change in the quantity and characteristics of the pollutants to be discharged from such treatment works; and (3) any additional information that may be required by the board.~~

~~B. Treatment works operation and quality control.~~

~~1. Design and operation of facilities or treatment works and disposal of all wastes shall be in accordance with the registration statement filed with the department and in conformity with the conceptual design, or the plans, specifications, or other supporting data accepted by the board. The acceptance of the treatment works conceptual design or the plans and specifications does~~

~~not relieve the permittee of the responsibility of designing and operating the facility in a reliable and consistent manner to meet the facility performance requirements in the permit. If facility deficiencies, design or operational, are identified in the future which could affect the facility performance or reliability, it is the responsibility of the permittee to correct such deficiencies.~~

~~2. All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:~~

~~a. At all times, all facilities shall be operated in a prudent and workmanlike manner so as to minimize upsets and discharges of excessive pollutants to state waters.~~

~~b. The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance and testing functions required to ensure compliance with the conditions of this permit.~~

~~c. Maintenance of treatment facilities shall be carried out in such a manner that the monitoring and limitation requirements are not violated.~~

~~d. Collected solids shall be stored and disposed of in such a manner as to prevent entry of those wastes (or runoff from the wastes) into state waters.~~

~~G. Adverse impact.~~

~~The permittee shall take all feasible steps to minimize any adverse impact to state waters resulting from noncompliance with any limitation(s) or conditions specified in this permit, and shall perform and report such accelerated or additional monitoring as is necessary to determine the nature and impact of the noncomplying limitation(s) or conditions.~~

~~D. Duty to halt, reduce activity or to mitigate.~~

~~1. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.~~

~~2. The permittee shall take all reasonable steps to minimize, correct or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.~~

~~E. Structural stability.~~

~~The structural stability of any of the units or parts of the facilities herein permitted is the sole responsibility of the permittee and the failure of such structural units or parts shall not relieve the permittee of the responsibility of complying with all terms and conditions of this permit.~~

~~F. Bypassing.~~

~~Any bypass ("bypass" means intentional diversion of waste streams from any portion of a treatment works) of the treatment works herein permitted is prohibited unless:~~

~~1. Anticipated bypass—If the permittee knows in advance of the need for a bypass, the permittee shall notify the department's regional office promptly at least 10 days prior to the bypass. After considering its adverse effects the board may approve an anticipated bypass if:~~

~~a. The bypass is unavoidable to prevent a loss of life, personal injury, or severe property damage ("severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production); and~~

~~b. There are no feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment down time. However, if a bypass occurs during normal periods of equipment down time, or preventive maintenance and in the exercise of reasonable engineering judgment the permittee could have installed adequate backup equipment to prevent such bypass, this exclusion shall not apply as a defense.~~

~~2. Unplanned bypass—If an unplanned bypass occurs, the permittee shall notify the department's regional office as soon as possible, but in no case later than 24 hours, and shall take steps to halt the bypass as early as possible. This notification will be a condition for defense to an enforcement action that an unplanned bypass met the conditions in subdivision 1 of this subsection and in light of the information reasonably available to the permittee at the time of the bypass.~~

~~G. Conditions necessary to demonstrate an upset.~~

~~A permittee may claim an upset as an affirmative defense to an action brought for noncompliance for only technology-based effluent limitations. In order to establish an affirmative defense of upset, the permittee shall present properly signed, contemporaneous operating logs or other relevant evidence that shows:~~

~~1. That an upset occurred and that the cause can be identified;~~

~~2. The facility permitted herein was at the time being operated efficiently and in compliance with proper operation and maintenance procedures;~~

~~3. The permittee submitted a notification of noncompliance as required by Part II G of this chapter; and~~

~~4. The permittee took all reasonable steps to minimize or correct any adverse impact to state waters resulting from noncompliance with the permit.~~

~~H. Compliance with state and federal law.~~

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~~Compliance with this permit during its term constitutes compliance with the State Water Control Law and the Clean Water Act except for any toxic standard imposed under § 307(a) of the Clean Water Act.~~

~~Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act.~~

~~I. Property rights.~~

~~The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations.~~

~~J. Severability.~~

~~The provisions of this permit are severable.~~

~~K. Duty to register.~~

~~If the permittee wishes to continue to discharge under a general permit after the expiration date of this permit, the permittee must submit a new registration statement at least 120 days prior to the expiration date of this permit.~~

~~L. Right of entry.~~

~~The permittee shall allow, or secure necessary authority to allow, authorized state and federal representatives, upon the presentation of credentials:~~

- ~~1. To enter upon the permittee's premises on which the establishment, treatment works, or discharge(s) is located or in which any records are required to be kept under the terms and conditions of this permit;~~
- ~~2. To have access to inspect and copy at reasonable times any records required to be kept under the terms and conditions of this permit;~~
- ~~3. To inspect at reasonable times any monitoring equipment or monitoring method required in this permit;~~
- ~~4. To sample at reasonable times any waste stream, discharge, process stream, raw material or byproduct; and~~
- ~~5. To inspect at reasonable times any collection, treatment or discharge facilities required under this permit.~~

~~For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection time unreasonable during an emergency.~~

~~M. Transferability of permits.~~

~~This permit may be transferred to another person by a permittee if:~~

~~1. The current owner notifies the department's regional office 30 days in advance of the proposed transfer of the title to the facility or property;~~

~~2. The notice to the department includes a written agreement between the existing and proposed new owner containing a specific date of transfer of permit responsibility, coverage and liability between them; and~~

~~3. The department does not within the 30-day time period notify the existing owner and the proposed owner of the board's intent to modify or revoke and reissue the permit.~~

~~Such a transferred permit shall, as of the date of the transfer, be as fully effective as if it had been issued directly to the new permittee.~~

~~N. Public access to information.~~

~~Any secret formulae, secret processes, or secret methods other than effluent data submitted to the department may be claimed as confidential by the submitter pursuant to § 62.1-44.21 of the Code of Virginia. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "secret formulae, secret processes or secret methods" on each page containing such information. If no claim is made at the time of submission, the department may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in the Virginia Freedom of Information Act (§§ 2.1-340 et seq. and 62.1-44.21 of the Code of Virginia).~~

~~Claims of confidentiality for the following information will be denied:~~

- ~~1. The name and address of any permit applicant or permittee;~~
- ~~2. Registration statements, permits, and effluent data.~~

~~Information required by the registration statement may not be claimed confidential. This includes information submitted on the forms themselves and any attachments used to supply information required by the forms.~~

~~O. Permit modification.~~

~~The permit may be modified when any of the following developments occur:~~

- ~~1. When a change is made in the promulgated standards or regulations on which the permit was based;~~
- ~~2. When an effluent standard or prohibition for a toxic pollutant must be incorporated in the permit in accordance with provisions of § 307(a) of the Clean Water Act (33 USC § 1251 et seq.); or~~
- ~~3. When the level of discharge of a pollutant not limited in the permit exceeds applicable Water Quality Standards or the level which can be achieved by~~

~~technology based treatment requirements appropriate to the permittee.~~

~~P. Permit termination.~~

~~After public notice and opportunity for a hearing, the general permit may be terminated for cause.~~

~~Q. When an individual permit may be required.~~

~~The board may require any permittee authorized to discharge under this permit to apply for and obtain an individual permit. Cases where an individual permit may be required include, but are not limited to, the following:~~

- ~~1. The discharger(s) is a significant contributor of pollution.~~
- ~~2. Conditions at the operating facility change altering the constituents or characteristics of the discharge such that the discharge no longer qualifies for a general permit.~~
- ~~3. The discharge violates the terms or conditions of this permit.~~
- ~~4. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.~~
- ~~5. Effluent limitation guidelines are promulgated for the point sources covered by this permit.~~
- ~~6. A water quality management plan containing requirements applicable to such point sources is approved after the issuance of this permit.~~

~~This permit may be terminated as to an individual permittee for any of the reasons set forth above after appropriate notice and an opportunity for a hearing.~~

~~R. When an individual permit may be requested.~~

~~Any owner operating under this permit may request to be excluded from the coverage of this permit by applying for an individual permit. When an individual permit is issued to an owner the applicability of this general permit to the individual owner is automatically terminated on the effective date of the individual permit. When a general permit is issued which applies to an owner already covered by an individual permit, such owner may request exclusion from the provisions of the general permit and subsequent coverage under an individual permit.~~

~~S. Civil and criminal liability.~~

~~Except as provided in permit conditions on "bypassing" (Part III F), and "upset" (Part III G) nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance with the terms of this permit.~~

~~T. Oil and hazardous substance liability.~~

~~Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under § 311 of the Clean Water Act or~~

~~§§ 62.1-44.34:14 through 62.1-44.34:23 of the Code of Virginia.~~

~~U. Unauthorized discharge of pollutants.~~

~~Except in compliance with this permit, it shall be unlawful for any permittee to:~~

- ~~1. Discharge into state waters sewage, industrial wastes, other wastes or any noxious or deleterious substances; or~~
- ~~2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the uses of such waters for domestic or industrial consumption, or for recreation, or for other uses.~~

PART II.

CONDITIONS APPLICABLE TO ALL VPDES PERMITS.

A. Monitoring.

1. Samples and measurements taken as required by this permit shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 or alternative methods approved by the U.S. Environmental Protection Agency unless other procedures have been specified in this permit.
3. The permittee shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will ensure accuracy of measurements.

B. Records.

1. Records of monitoring information shall include:
 - a. The date, exact place, and time of sampling or measurements;
 - b. The individuals who performed the sampling or measurements;
 - c. The dates and times analyses were performed;
 - d. The individuals who performed the analyses;
 - e. The analytical techniques or methods used; and
 - f. The results of such analyses.
2. Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities which shall be retained for a period of at least five years, the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample,

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measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the permittee, or as requested by the board.

C. Reporting monitoring results.

1. The permittee shall submit the results of the monitoring required by this permit not later than the 10th day of the month after monitoring takes place, unless another reporting schedule is specified elsewhere in this permit. Monitoring results shall be submitted to the department's regional office.

2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR) or on forms provided, approved or specified by the department.

3. If the permittee monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.

4. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The permittee shall furnish to the department, within a reasonable time, any information which the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the permittee to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of the wastes from his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of the State Water Control Law. The permittee shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized discharges. Except in compliance with this permit or another permit issued by the board it shall be unlawful for any person to:

1. Discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substances; or

2. Otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to animal or aquatic life, or to the use of such waters for domestic or industrial consumption, or for recreation, or for other uses.

G. Reports of unauthorized discharges. Any permittee who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance into or upon state waters in violation of Part II F; or who discharges or causes or allows a discharge that may reasonably be expected to enter state waters in violation of Part II F, shall notify the department of the discharge immediately upon discovery of the discharge, but in no case later than 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the department within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;

2. The cause of the discharge;

3. The date on which the discharge occurred;

4. The length of time that the discharge continued;

5. The volume of the discharge;

6. If the discharge is continuing, how long it is expected to continue;

7. If the discharge is continuing, what the expected total volume of the discharge will be; and

8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit. Discharges reportable to the department under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a bypass or upset should occur from a treatment works and the discharge enters or could be expected to enter state waters, the permittee shall promptly notify, in no case later than 24 hours, the department by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The permittee shall submit the report to the department in writing within five days of discovery of the discharge in accordance with Part II I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1. Unusual spillage of materials resulting directly or indirectly from processing operations;

2. Breakdown of processing or accessory equipment;

3. Failure or taking out of service some or all of the treatment works; and

4. Flooding or other acts of nature.

1. Reports of noncompliance. The permittee shall report any noncompliance which may adversely affect state waters or may endanger public health.

1. An oral report shall be provided within 24 hours from the time the permittee becomes aware of the circumstances. The following shall be included as information which shall be reported within 24 hours under this subsection:

- a. Any unanticipated bypass; and
- b. Any upset which causes a discharge to surface waters.

2. A written report shall be submitted within five days and shall contain:

- a. A description of the noncompliance and its cause;
- b. The period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and
- c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The board may waive the written report on a case-by-case basis for reports of noncompliance under Part II I if the oral report has been received within 24 hours and no adverse impact on state waters has been reported.

3. The permittee shall report all instances of noncompliance not reported under Parts II I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports shall contain the information listed in Part II I 2.

NOTE: The immediate (within 24 hours) reports required in Part II G, H and I may be made to the department's regional office. Reports may be made by telephone or by FAX. For reports outside normal working hours, leave a message and this shall fulfill the immediate reporting requirement. For emergencies, the Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-800-468-8892.

J. Notice of planned changes.

1. The permittee shall give notice to the department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

- a. The permittee plans alteration or addition to any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(1) After promulgation of standards of performance under § 306 of the Clean Water Act which are applicable to such source; or

(2) After proposal of standards of performance in accordance with § 306 of the Clean Water Act which are applicable to such source, but only if the standards are promulgated in accordance with § 306 within 120 days of their proposal;

b. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations nor to notification requirements specified elsewhere in this permit; or

c. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.

2. The permittee shall give advance notice to the department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

K. Signatory requirements.

1. Registration statement. All registration statements shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

b. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

c. For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a public agency includes: (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

2. Reporting requirements. All reports required by permits and other information requested by the board shall be signed by a person described in Part II K 1 or by

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a duly authorized representative of that person. A person is a duly authorized representative only if:

- a. The authorization is made in writing by a person described in Part II K 1;
- b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or any individual occupying a named position; and
- c. The written authorization is submitted to the department.

3. Changes to authorization. If an authorization under Part II K 2 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of Part II K 2 shall be submitted to the department prior to or together with any reports or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Part II K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the State Water Control Law and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the State Water Control Law but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The permittee shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under § 405(d) of the Clean Water Act within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall submit a new registration statement at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Part II U) and "upset" (Part II V), nothing in this permit shall be construed to relieve the permittee from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Article 11 (§ 62.1-44.34:14 et seq.) of the State Water Control Law.

Q. Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by the permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering state waters.

S. Duty to mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the

permitted activity in order to maintain compliance with the conditions of this permit.

U. Bypass.

1. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Part II U 2 and U 3.

2. Notice.

a. *Anticipated bypass.* If the permittee knows in advance of the need for a bypass, prior notice shall be submitted, if possible, at least 10 days before the date of the bypass.

b. *Unanticipated bypass.* The permittee shall submit notice of an unanticipated bypass as required in Part II I.

3. Prohibition of bypass.

a. Bypass is prohibited, and the board may take enforcement action against a permittee for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The permittee submitted notices as required under Part II U 2.

b. The board may approve an anticipated bypass, after considering its adverse effects, if the board determines that it will meet the three conditions listed in Part II U 3 a.

V. Upset.

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Part II V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and that the permittee can identify the causes of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required in Part II I; and

d. The permittee complied with any remedial measures required under Part II S.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

W. *Inspection and entry.* The permittee shall allow the director, or an authorized representative, upon presentation of credentials and other documents as may be required by law to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

4. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and the State Water Control Law, any substances or parameters at any location.

For purposes of this section, the time for inspection shall be deemed reasonable during regular business hours, and whenever the facility is discharging. Nothing contained herein shall make an inspection unreasonable during an emergency.

X. *Permit actions.* Permits may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

Y. Transfer of permits.

1. Permits are not transferable to any person except after notice to the department. Except as provided in Part II Y 2, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, or a minor modification made, to identify the new permittee and incorporate such other requirements as may be necessary under the State Water Control Law and the Clean Water Act.

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2. As an alternative to transfers under Part II Y 1, this permit may be automatically transferred to a new permittee if:

- a. The current permittee notifies the department at least 30 days in advance of the proposed transfer of the title to the facility or property;
- b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
- c. The board does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in Part II Y 2 b.]

9 VAC 25-194-80. Evaluation of chapter and petitions for reconsideration or revision.

[A.] Within three years after the effective date of this chapter, the department shall perform an analysis on this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter, (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner, (iii) an assessment of the effectiveness of this chapter, (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements this chapter which are more stringent than federal requirements, and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter or (iii) amend this chapter. If the board is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

[B. The board shall receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision of this chapter.]

DOCUMENT INCORPORATED BY REFERENCE

Standard Industrial Classification Manual 1987, U.S. Office of Management and Budget, National Technical Information Service, Order No. PB 87-100012.

VA.R. Doc. No. R97-757; Filed August 27, 1997, 11:56 a.m.

EMERGENCY REGULATIONS

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: State Plan for Medical Assistance Services Relating to Specialized Care Nursing Facility Services: Provider and Recipient Criteria.

12 VAC 30-20-10 et seq. Administration of Medical Assistance Services (amending 12 VAC 30-20-170).

12 VAC 30-60-10 et seq. Standards and Methods Used to Assure High Quality Care (amending 12 VAC 30-60-40, 12 VAC 30-60-320 and 12 VAC 30-60-340).

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

Effective Dates: August 14, 1997 through August 13, 1998.

SUMMARY

REQUEST: The Governor is hereby requested to approve this agency's adoption of the emergency regulation entitled Specialized Care Nursing Facility Services: Provider and Recipient Criteria. This regulation will amend the Specialized Care program to update the definitions of provider and recipient criteria.

RECOMMENDATION: Recommend approval of the department's request to take an emergency adoption action regarding Specialized Care Nursing Facility Services: Provider and Recipient Criteria. The department intends to initiate the public notice and comment requirements contained in the Code of Virginia § 9-6.14:7.1.

/s/ Joseph M. Teefey, Director
Department of Medical Assistance Services
Date: July 21, 1997

/s/ Robert W. Lauterberg, Director
Department of Planning and Budget
Date: July 30, 1997

/s/ Robert C. Metcalf
Secretary of Health and Human Resources
Date: August 5, 1997

/s/ George Allen
Governor
Date: August 7, 1997

DISCUSSION

BACKGROUND: The sections of the State Plan affected by this action are Attachment 4.19 C - Basis of Payment for Reserving Beds During a Recipient's Absence from an Inpatient Facility (12 VAC 30-20-170); Attachment 3.1 C - Standards Established and Methods Used to Assure High Quality of Care (12 VAC 30-60-40); and Supplement 1 to Attachment 3.1 C - Adult Specialized Care Criteria (12 VAC 30-60-320) and Pediatric and Adolescent Specialized Care Criteria (12 VAC 30-60-340).

On October 1, 1991, the Department of Medical Assistance Services (DMAS) implemented a new reimbursement system for nursing facilities based on patient care intensity and a new level of service, called Specialized Care. Specialized

Care was described as care required by residents who have long-term health conditions which demand close medical supervision, 24-hour licensed nursing care, and specialized services or equipment. For payment purposes, services for specialized care residents were grouped into four categories: Comprehensive Rehabilitation, Complex Care, Ventilator Dependent, and AIDS.

The Specialized Care program was DMAS' response to the need for access to care and the appropriate provision of services to those Medicaid recipients who required more intensive resources than average nursing facility residents. The DMAS Virginia Medicaid Nursing Home Manual states that Specialized Care includes residents "...who have needs that are so intensive or non-traditional that they cannot be adequately captured by a patient intensity rating system, e.g., ventilator dependent or AIDS patients."

Expenditures, utilization, and provider participation have increased dramatically since the inception of the Specialized Care program in 1991. After careful analysis of the Specialized Care program, DMAS reported that the actual costs to providers of specialized care services appeared to be well below the flat rates that the providers were being reimbursed. Recommendations for reductions in the specialized care rates were submitted to the General Assembly. Hearings and discussions ensued between the legislature, DMAS, and the provider community which resulted in the legislature mandating a formal study of the Specialized Care program.

The study group that was organized to evaluate the specialized care program included DMAS staff, representatives from industry trade associations (including the Virginia Health Care Association and the Virginia Hospital and Healthcare Association), and supporting staff from the Center for Health Policy Studies, commissioned by DMAS. The study group produced a report providing a comprehensive review of the existing Specialized Care program. The report examines resident and provider criteria governing participation in the Specialized Care program, provides an overview of DMAS Utilization Review (UR) and Control guidelines and processes for specialized care providers, reviews Medicare and DMAS specialized care payment policies and issues for nursing facility services, and describes the new payment methodology developed for the Specialized Care program.

The report presents DMAS' recommendations for a collection of changes in the Specialized Care program. These recommendations include changes in specialized care categories and payment methodologies, and clarifications and changes in specialized care resident and provider criteria. In December of 1996, DMAS implemented emergency regulations for the payment methodologies based upon two broad recommendations from the report. Those emergency regulations addressed the recommendations in the report for changes in specialized care payment methodologies and an elimination of the existing AIDS category of care due to non-utilization. The remaining

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recommendations from the report primarily addressed changes in Specialized Care resident and provider criteria. The remaining recommended regulatory changes are addressed by these emergency regulations, with the exception of changes that require further analysis and comment to determine the appropriateness of their implementation. All of the remaining changes will be addressed during the promulgation of the permanent regulation following this emergency regulation.

A. Recipient Medical Eligibility Criteria

The medical eligibility criteria for the Specialized Care program currently are established in two sets of criteria. There is a distinct set of medical criteria for individuals over the age of 21. Those under the age of 21 are classified as pediatric or adolescent and fall into a separate category. Both sets of criteria require further medical criteria definition. The criteria have not been updated since the implementation of the program in 1991. As services have been studied, and as utilization has increased resulting in great diversity among the recipients served by the program, a need to provide more concrete service definitions in some areas has been demonstrated. The proposed changes in category areas of Comprehensive Rehabilitation, Mechanical Ventilation, and Complex Health Care will better assure that recipients who require a higher acuity of care will be routed to and placed in Specialized Care when appropriate. The changes in the criteria will also assist in deterring inappropriate utilization of Specialized Care reimbursement.

B. Contract Approval.

The provider criteria have not been updated or significantly revised since the implementation of the program in 1991. As the program history has been studied, and as utilization has increased, DMAS has determined that provider standards must be more specifically designated in regulation so that the medically compromised recipients receiving Specialized Care services can be assured that contracting Specialized Care providers maintain all required services and are able to provide quality services. To address these concerns, these emergency regulations seek to apply standards to Specialized Care contract approval.

The contract approval process will ensure that providers seeking Specialized Care contracts can provide an adequate quality of nursing facility care, as well as meet the scope of service provisions for Specialized Care. The criteria will designate quantifiable standards to clearly delineate acceptable provider participation requirements which are supported within a provider's history of administering institutional health care services. DMAS has piloted these criteria standards since the program implementation in 1991 with the exception of the references to the Health Care Financing Administration's (HCFA) sanctioning guidelines which were implemented as applicable to all nursing facilities in 1996. Prior to the federal changes in the nursing facility guidelines, DMAS reviewed the now obsolete level classification system formerly mandated by HCFA for nursing facility surveys. With the changes that HCFA implemented in

the sanctioning and deficiency classification matrix in 1996, DMAS deemed it necessary to develop regulatory approval standards that more accurately utilized the current HCFA classifications.

AUTHORITY TO ACT: The Code of Virginia (1950) as amended, § 32.1-324, 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) § 9-6.14.4.1(C)(5), for an agency's adoption of emergency regulations subject to the Governor's prior approval. Subsequent to the emergency adoption action and filing with the Registrar of Regulations, this agency intends to continue the public notice and comment process contained in Article 2 of the APA.

Chapter 924 of the Acts of the Assembly, Item 322.D.2.a requires DMAS to promulgate regulations, to be effective July 1, 1997, "... to implement other appropriate changes in service limits, program category criteria, utilization control methods, and provider contract standards consistent with the recommendations of the study". Without an emergency regulation, this amendment to the State Plan cannot become effective until the publication and concurrent comment and review period requirements of the APA's Article 2 are met. Therefore, an emergency regulation is needed to meet the July 1, 1997, effective date established by the General Assembly.

NEED FOR EMERGENCY ACTION: The Code § 9-6.14.4.1(C)(5) provides for regulations which an agency finds are necessitated by an emergency situation. To enable the director, in lieu of the Board of Medical Assistance Services, to implement the required changes, he must adopt this emergency change to the State Plan. This issue qualifies as an emergency regulation as provided for in § 9-6.14.4.1(C)(5)(ii), because the appropriation act requires this regulation to be effective within 280 days from the enactment of the act. As such, this regulation may be adopted without public comment with the prior approval of the Governor. Since this emergency regulation will be effective for no more than 12 months and the director wishes to continue regulating the subject entities, the department is initiating the Administrative Process Act Article 2 procedures.

FISCAL/BUDGETARY IMPACT: There are no localities which are uniquely affected by these regulations as they apply statewide. The changes proposed for the provider and recipient criteria will not financially impact providers or recipients. By adding more specific parameters to some recipient criteria areas, a small, yet undetermined, cost savings may be realized by DMAS.

APPROVAL SOUGHT FOR 12 VAC 30-20-170, 12 VAC 30-60-40, 12 VAC 30-60-320, and 12 VAC 30-60-340. Approval of the Governor is sought for an emergency modification of the Medicaid State Plan in accordance with the Code of Virginia § 9-6.14.4.1(C)(5) to adopt the following regulation:

12 VAC 30-20-170. Basis of payment for reserving beds during a recipient's absence from an inpatient facility.

4. Payment is made for reserving beds in long-term care facilities for recipients during their temporary absence for the following purpose: For leaves of absence up to 18 days per year for any reason other than inpatient hospital admissions. *For recipients that are qualified for specialized care, the facility will receive payment at the nursing facility rate for any leave days taken up to the maximum 18 days.*

12 VAC 30-60-40. Utilization control: Nursing facilities.

A. Long-term care of residents in nursing facilities will be provided in accordance with federal law using practices and procedures that are based on the resident's medical and social needs and requirements. All nursing facility services, including specialized care, shall be provided in accordance with guidelines found in the Virginia Medicaid Nursing Home Manual.

B. Nursing facilities must conduct initially and periodically a comprehensive, accurate, standardized, reproducible assessment of each resident's functional capacity. This assessment must be conducted no later than 14 days after the date of admission and promptly after a significant change in the resident's physical or mental condition. Each resident must be reviewed at least quarterly, and a complete assessment conducted at least annually.

C. The Department of Medical Assistance Services shall periodically conduct a validation survey of the assessments and medical records completed by nursing facilities to determine ~~that~~ *whether* services provided to the residents are medically necessary and that needed services are provided. The survey will be composed of a sample of Medicaid residents and will include review of both current and closed medical records. *If provision of, or need for, services or the appropriate level of care are not demonstrated in the medical record, the DMAS shall deny reimbursement, retract reimbursement, or adjust case-mix calculations to accurately reflect the services and level of care provided or that should appropriately have been provided to any Medicaid recipient.*

D. Nursing facilities must submit to the Department of Medical Assistance Services resident assessment information at least every six months for utilization review. If an assessment completed by the nursing facility does not reflect accurately a resident's capability to perform activities of daily living and significant impairments in functional capacity, then reimbursement to nursing facilities may be adjusted during the next quarter's reimbursement review. Any individual who willfully and knowingly certifies (or causes another individual to certify) a material and false statement in a resident assessment is subject to civil money penalties.

E. In order for reimbursement to be made to the nursing facility for a recipient's care, the recipient must meet nursing facility criteria as described in 12 VAC 30-60-300 (Nursing Facility Criteria).

In order for reimbursement to be made to the nursing facility for a recipient requiring specialized care, the recipient

must meet specialized care criteria as described in 12 VAC 30-60-320 (Adult Specialized Care Criteria) or 12 VAC 30-60-340 (Pediatric/Adolescent Specialized Care Criteria). *In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below.*

In each case for which payment for nursing facility or specialized care services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan, that the individual requires nursing facility care.

~~F. Reimbursement for specialized care must be preauthorized by the Department of Medical Assistance Services. In addition, reimbursement to nursing facilities for residents requiring specialized care will only be made on a contractual basis. Further specialized care services requirements are set forth below, according to established guidelines for preauthorization recorded in the Virginia Medicaid Nursing Home Manual. If it is not demonstrated in the preauthorization process that a recipient meets the established nursing facility and specialized care criteria set forth in 12 VAC 30-60-320 or 12 VAC 30-60-340, the DMAS shall deny reimbursement.~~

~~In each case for which payment for nursing facility services is made under the State Plan, a physician must recommend at the time of admission or, if later, the time at which the individual applies for medical assistance under the State Plan that the individual requires nursing facility care.~~

~~F. G. For nursing facilities, a physician must approve a recommendation that an individual be admitted to a facility. The resident must be seen by a physician at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. At the option of the physician, required visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner.~~

~~G. H. When the resident no longer meets nursing facility criteria or requires services that the nursing facility is unable to provide, then the resident must be discharged. At the time that the resident no longer meets the specialized care criteria set forth in 12 VAC 30-60-320 or 12 VAC 30-60-340, the resident must be discharged to the nursing facility level of care or other appropriate lower level of care.~~

~~H. I. Specialized care services: contract and scope of services requirements.~~

1. Providers must be nursing facilities certified by the Division of Licensure and Certification, State Department of Health, and must have a current signed participation agreement with the Department of Medical Assistance Services to provide nursing facility care. *In addition, providers must be certified to provide skilled nursing services by the Medicare program as it applies to Part A skilled (SNF) services.*

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2. Providers must agree contract to provide care to at least four residents who meet the specialized care criteria for children/adolescents or adults.

3. Providers must assist Medicaid recipients in applying for third-party benefits for which recipients may be eligible (including, but not limited to, assisting with the application for Medicare coverage, including assistance with the appropriate disability determination process to secure skilled (SNF) coverage and other applicable Medicare benefits or other third-party coverage).

4. Providers must meet the contract approval standards that are set forth in subsection J to receive a new contract for specialized care services. As part of the review process for providers seeking a contract to provide specialized care services, DMAS shall complete a comprehensive two year history review of the facility which will include an examination of the licensure and certification survey reports from the Virginia Department of Health, reviews conducted by DMAS, and complaints received by the Department of Health, DMAS, and the Department for the Aging (State Long-Term Care Ombudsman Program). If the provider is a new nursing facility provider and does not have a two year history of providing nursing facility level of care, DMAS shall conduct a comprehensive review of the provider's status as a health care provider and make determinations based on the quality standards that reflect the criteria in this section deemed appropriate for contracting nursing facilities. If the facility has not been providing health care for at least two years, it will not be eligible for a contract for specialized care services.

5. In addition to the above specified review, the provider must document the ability to provide the services in accordance with the program scope of service requirements.

Each component of the review will be evaluated according to the provider's ability to successfully meet all component requirements. If a requester does not meet one or more of the requirements, the request for contract will be rejected. A provider will not be awarded a contract if it is demonstrated in the two year review history that the provider has not been able to provide an adequate quality of nursing facility care as demonstrated according to the requirements set forth in subsection J, or if the provider is unable to document the ability to provide the scope of service requirements as described in subsection K.

J. Contract Approval Standards: The provider standards that must be met for new specialized care contracts are set forth below.

1. During the most recent two years, the provider cannot have been found to have "substandard quality of care" (as defined in the Health Care Financing Administration's nursing facility sanctioning guidelines) during the survey process by the Department of Health. The provider will not be allowed to participate in the program until a two

year history is demonstrated without any "substandard quality of care" deficiency ratings.

2. During the most recent two years, the provider cannot have any more than 3 justified complaints in any of the following category areas confirmed by the Department of Health, DMAS, and/or the State Long-Term Care Ombudsman Program and can have no more than 8 total justified complaints confirmed among the following categories: Residents Rights; Admission, Transfer, and Discharge Rights; Resident Behavior and Facility Practices; Quality of Life; Resident Assessment; Quality of Care; Nursing Services; Dietary Services; Physician Services; Specialized Rehabilitative Services; Dental Services; Pharmacy Services; Infection Control; Physical Environment; Administration.

3. During the most recent two years, the provider cannot have demonstrated a significant lack of compliance as identified in DMAS utilization review findings.

4. The provider must be able to document within the written contract application request the ability to provide all required services as specified in the contractual guidelines as defined in the scope of required services for specialized care in subsection K.

5. If any of the above specified contract approval standards are not met by the requesting provider, the provider will not meet all components of the contract approval process and will not be granted specialized care reimbursement. A provider may reapply for a contract after the deficient area(s) is corrected in accordance with the above specified guidelines.

2- K. Scope of Required Services: Providers must be able to provide the following specialized services to Medicaid specialized care recipients:

~~a- 1. Physician visits by the attending physician at least once weekly (after initial physician visit, subsequent visits may alternate between physician and physician assistant or nurse practitioner) every 30 days. The attending physician must make the required 30 day visit. If a resident must be seen more frequently than every once 30 days, at the attending physician's discretion visits occurring in between the required 30 day visits may be conducted by a qualified physician's assistant or certified nurse practitioner,~~

~~b- 2. Skilled nursing services by a registered nurse available 24 hours a day. A registered nurse must function in a "charge nurse" capacity whose sole responsibility is the designated nursing unit on which the specialized care residents reside. If specialized care residents are residing on more than one designated nursing unit within the facility, a registered nurse must fulfill the above specified requirement for each separate nursing unit housing specialized care residents;~~

For Comprehensive Rehabilitation residents, nursing staff are responsible for rehabilitative nursing and supporting documentation. Rehabilitative nursing shall

include the practice of skills learned or acquired during therapy sessions and the on-going clinical assessment and documentation of rehabilitative progress as a component of the required nursing documentation. The documentation must incorporate nursing-related impressions of the outcomes of the overall therapeutic regime, including progress as assessed on the unit. A registered nurse is responsible for the oversight of rehabilitative nursing practice, clinical assessment, and documentation required to meet the rehabilitative nursing requirement.

~~e.~~ 3. Coordinated multidisciplinary team approach to meet the needs of the resident;

~~d.~~ 4. Infection control;

~~e.~~ 5. For residents under age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of ~~90 minutes each day, five days per week~~ 450 therapy minutes per week (every 7 days);

~~f.~~ 6. For residents over age 21 who require two of three rehabilitative services (physical therapy, occupational therapy, or speech-language pathology services), therapy services must be provided at a minimum of ~~two hours per day, five days a week~~ 600 therapy minutes per week (every 7 days);

~~g.~~ 7. Ancillary services related to a plan of care;

~~h.~~ 8. Respiratory therapy services by a board-certified therapist (for ventilator patients, these services must be available 24 hours per day); *related to the plan of care. Providers must assure that all residents who are ventilator dependent or who are receiving respiratory therapy in the complex health care category as defined in 12 VAC 30-60-320 or 12 VAC 30-60-340 are seen by a respiratory therapist at least once every 14 days;*

~~i.~~ 9. Psychology services by a board-certified licensed psychologist or by a licensed clinical social worker under the direct supervision of a licensed clinical psychologist ~~or a licensed psychologist clinical~~ related to a plan of care;

~~j.~~ 10. Necessary durable medical equipment and supplies as required by the plan of care;

~~k.~~ 11. Nutritional elements as required by the plan of care;

~~l.~~ A plan to assure that specialized care residents have 12. The same opportunity for specialized care residents to participate in integrated nursing facility activities as other residents;

~~m.~~ 13. Nonemergency transportation afforded in a manner consistent with transportation to community activities and events that is provided to all other nursing facility residents;

~~n.~~ 14. Discharge planning and ongoing utilization review. Discharge planning shall begin at admission and be an ongoing process for all residents during a specialized care stay. Utilization review shall be conducted and documented in the medical record by the interdisciplinary care plan team at least every 30 days to support that the resident continues to meet the specified criteria requirements for specialized care reimbursement. This review shall also be substantiated by the physician's documentation of utilization review of the necessary criteria and written support in the medical record of the resident's continued need for specialized care stay at least every 30 days; and

~~o.~~ 15. Family or caregiver training.

~~3.~~ L. Providers must coordinate with appropriate state and local agencies for educational and habilitative needs for Medicaid specialized care recipients who are ~~under the age of 24~~ eligible for such services.

M. Contract Termination. The specialized care provider contract shall be terminated upon the demonstration of one or more of the following conditions:

1. The provider is no longer certified to participate in the Medicare or Medicaid programs.

2. The provider violates provisions of the written contract for specialized care.

3. The provider gives written notice to DMAS at least 30 days in advance that it wishes to terminate the contract.

12 VAC 30-60-320. Adult specialized care admission and continued stay criteria.

~~§ 2.0.~~ A. General description. A resident must meet all aspects of the nursing facility criteria as set forth in 12 VAC 30-60-300 (nursing facility criteria) before being considered for specialized care reimbursement. A provider must also have a contract to provide specialized care before being eligible to receive specialized care reimbursement. The resident must ~~have demonstrate~~ long-term health conditions requiring close medical supervision in a nursing facility, a need for 24-hour licensed nursing care, AND require specialized services ~~or equipment~~ as defined in the categories of specialized care. Residents must be discharged from specialized care services to the nursing facility level or other appropriate level of care when the program criteria are no longer met.

~~§ 2.1.~~ B. Targeted population. Individuals requiring specialized care must meet the specified general program criteria in subsection C and the criteria defined in at least one of three specified categories of care in subsection D. These categories are: Comprehensive Rehabilitation; Mechanical Ventilation; Complex Health Care. The general program criteria and specific category criteria are set forth below.

~~A. Individuals requiring mechanical ventilation~~

~~B. Individuals with communicable diseases requiring universal or respiratory precautions~~

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~~C. Individuals requiring ongoing intravenous medication or nutrition administration~~

~~D. Individuals requiring comprehensive rehabilitative therapy services~~

~~§ 2-2. C. Criteria. A. The individual must require at a minimum:~~

~~1. Nursing facility level of care;~~

~~2. Physician visits at least once weekly (the initial physician visit must be made by the physician personally. Subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner) every 30 days;~~

~~3. Skilled registered nursing services 24 hours a day (a registered nurse must be on supervise the nursing unit on which the resident resides, 24 hours a day in a "charge nurse" capacity, whose sole responsibility is the designated that unit); and~~

~~4. A coordinated multidisciplinary team approach to meet needs.~~

~~B. D. In addition to the general criteria in subsection C, the individual must meet require one of the following requirements three categories of care:~~

~~1. Comprehensive Rehabilitation Category: All of the following category criteria must be met to qualify for the comprehensive rehabilitation category.~~

~~a. Must require two out of three of the following rehabilitative services which are required at an acuity that is not available at the nursing facility level of care: Physical Therapy, Occupational Therapy, or Speech-pathology services; therapy must be provided at a minimum of 2 hours of therapy per day, 5 days per week; individual must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or.~~

~~b. Must receive a minimum of 600 therapy minutes per week. No more than 180 minutes on any one therapy day shall count toward the 600 weekly minutes. Daily therapy should not exceed a resident's ability to effectively participate in the therapeutic regime.~~

~~c. Must have a stable medical condition which is compatible with an active comprehensive rehabilitation program. In the event the recipient experiences an acute medical instability (one to two day illness or less) providers shall adjust the therapy regime to assure the required weekly 600 minute schedule is completed. If the resident's acute medical instability is too severe or too long to permit completion of the required weekly 600 minute schedule, the resident may be placed on a reduced therapy schedule. For the purposes of this subsection, the period during which the recipient is placed on a reduced therapy schedule is called "medical hold." The Department of Medical Assistance Services (DMAS) shall continue~~

specialized care reimbursement in this category for one medical hold period, of no more than 3 days, per rehabilitation stay. To qualify for reimbursement, the medical hold or reduced therapy schedule must be ordered by the physician and the medical record must support that the resident, due to acute illness or acute medical instability, was unable to tolerate or reasonably make up the required therapy time toward the 600 required weekly minutes. If a resident should require more than one medical hold during a rehabilitative stay, DMAS shall determine, at its sole discretion, whether an additional medical hold period is permitted based on the resident's medical status and overall rehabilitative progress. If any period of medical hold is not ordered by the physician and substantiated in the medical record as determined by DMAS, DMAS shall deny or retract reimbursement for such periods.

If the full 600 minutes of rehabilitation therapies are not provided during any seven day period without an acceptable, substantiated, and ordered "medical hold" period, the Department of Medical Assistance Services shall deny or retract specialized care reimbursement. If the resident does not receive the full 600 minutes of required therapy during a seven day week, the following reimbursement denial or retraction scale shall apply:

480-599 minutes received = 1 day retraction

360-479 minutes received = 2 days retraction

240-359 minutes received = 3 days retraction

120-239 minutes received = 4 days retraction

0-119 minutes received = 5 days retraction.

In addition to the above scale, if the resident is missing therapy time and is found not to be making significant measurable progress in the rehabilitation program, a full denial of specialized care reimbursement shall occur from the point that the resident is documented, as determined by DMAS, to have ceased making significant rehabilitation progress in the medical record.

d. Must be able to benefit from the services to be provided, based on physician assessment of rehabilitation potential, with the expectation that the condition of the resident will improve significantly in a reasonable and generally predictable period of time in accordance with medical practice standards; or, based on physician assessment, must require rehabilitative services to establish a safe and effective maintenance program provided for a specific medical diagnosis. Once a resident is no longer able to benefit from this level of rehabilitation, has ceased to make significant progress in the rehabilitation program, or once rehabilitation or maintenance programming can be provided at the nursing facility or other lower level of

care, the resident must be discharged from the specialized care program.

e. Must demonstrate significant, measurable progress in the overall rehabilitative plan of care on a monthly (30 day) basis.

2. Mechanical Ventilation Category: ~~Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac) kinetic therapy; or~~

a. The recipient must meet both of the following category criteria, and must meet the criteria specified in subdivisions b and c of this subsection if applicable to the patient's treatment status, to qualify for the mechanical ventilation category.

(1) Must require daily mechanical ventilation which may be for all or a specified part of a 24-hour period, and

(2) Must require a visit from a respiratory therapist at least once every 14 days.

b. If a CPAP (assist device with continuous positive airway pressure), BiPAP (intermittent assist device with inspiratory and expiratory positive airway pressure), or other similar mechanical respiratory assist device is used instead of a continuous mechanical ventilator, the resident must require other 24-hour specialized care services, such as frequent monitoring and nursing intervention for desaturation. A resident would not meet this (mechanical respiratory assist device) criteria if such device is only used without significant other medical/nursing needs which require specialized care.

c. If a resident has been successfully weaned from the support of a mechanical ventilator, DMAS will continue specialized care reimbursement for up to five days after the resident has not been ventilator dependent for 24 hours. This five-day period begins after the resident completes a 24-hour period with no ventilatory support and demonstrates respiratory stability. If during the five days, the resident requires ventilatory support or demonstrates marked respiratory instability, the resident may continue in the Mechanical Ventilation Category until five consecutive days of respiratory stability are demonstrated. Continued instability must be documented by the physician in the medical record.

3. Complex Health Care Category: ~~Individuals that require~~ At least one of the following special services must be met to qualify for the complex health care category:

a. Ongoing Must require daily administration of intravenous pain management medications or for terminal illness diagnoses, such as cancer, or must require intravenous nutrition (i.e., TPN, antibiotic

therapy, narcotic administration, etc. Total Parenteral Nutrition).

b. Must require special infection control precautions (~~universal or respiratory precaution; this does not include handwashing precautions only~~) that necessitate isolation with negative pressure ventilation or other specialized infection control interventions that cannot be adequately managed in a medically necessitated private room.

c. Must require dialysis treatment that is provided on-unit within the nursing facility (i.e., peritoneal dialysis).

d. Must require daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory therapist. The respiratory condition being treated must require chest physiotherapy (PT) followed by a nebulizer treatment 4 times per day and suctioning at least every 2 hours; or chest PT followed by a nebulizer treatment 4 times per day for a resident with a tracheostomy; or chest PT 4 times per day for a resident with a tracheostomy requiring suctioning at least every 2 hours; or nebulizer treatments 4 times per day for a resident with a tracheostomy; or ongoing assessment and monitoring of respiratory/cardiac status for a resident with a chest tube. Residents receiving these services must require a visit from a respiratory therapist at least once every 14 days.

e. Must require extensive wound care ~~requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti; for at least one stage IV pressure ulcer (decubitus); a large surgical wounds wound that cannot be closed; or second or third degree burns covering more than 10% of the body).~~ These wounds must require debridement, irrigation, packing, etc., more than two times a day or ongoing consistent utilization of kinetic therapy (low air-loss, air fluidized, or rotating or turning specialty beds) as ordered by the physician in combination with other appropriate, aggressive wound care treatment.

f. Must have multiple unstable ostomies (a single ostomy does not constitute a requirement for special care) requiring frequent care (i.e., suctioning every hour, stabilization of feeding; stabilization of elimination). The instability of more than one ostomy must be demonstrated in the medical record such that it can be determined that extensive daily care and intervention at the specialized care level of care is necessitated.

12 VAC 30-60-340. Pediatric and adolescent specialized care admission and continued stay criteria.

~~§ 3-9~~ A. General description. A child or adolescent must meet all aspects of the nursing facility criteria as set forth in 12 VAC 30-60-300 (nursing facility criteria) before being considered for specialized care reimbursement. A provider must also have a contract to provide pediatric specialized

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care before being eligible to receive specialized care reimbursement. To receive the pediatric specialized care rate for services to children under the age of 14, the provider must provide care to the child within a distinct part unit (DPU) of eight or more dedicated pediatric beds. The child must have demonstrate ongoing health conditions requiring close medical supervision in a nursing facility, a need for 24 hours hour licensed nursing supervision, AND require specialized services or equipment, as defined in the categories of specialized care. Residents must be discharged from specialized care services to the nursing facility level or other appropriate level of care when the program criteria are no longer met. The recipient must be age 21 or under.

§ 3.4 B. Targeted population. A child or adolescent requiring specialized care must meet the specified general program criteria in subsection C and the criteria defined in at least one of three specified categories of care in subsection D. These categories are: Comprehensive Rehabilitation; Mechanical Ventilation; and Complex Health Care. The general program criteria and specific category criteria are set forth below.

A. Children requiring mechanical ventilation

B. Children with communicable diseases requiring universal or respiratory precautions (excluding normal childhood diseases such as chicken pox, measles, strep throat, etc.)

C. Children requiring ongoing intravenous medication or intravenous nutrition administration

D. Children requiring daily dependence on device based respiratory or nutritional support (tracheostomy, gastrostomy, etc.)

E. Children requiring comprehensive rehabilitative therapy service

F. Children with terminal illness

§ 3.2 C. Criteria. A. The child must require at a minimum:

1. Nursing facility level of care;

2. Physician visits at least once weekly (the initial physician visit must be made by the physician personally. Subsequent required physician visits after the initial visit may alternate between personal visits by the physician and visits by a physician assistant or nurse practitioner) every 30 days;

3. Skilled registered nursing services 24 hours a day (a registered nurse must be on supervise the nursing unit on which the child is residing resident resides in a "charge nurse" capacity, 24 hours a day, whose sole responsibility is that nursing unit);

4. A Coordinated multidisciplinary team approach to meet needs; and

5. The nursing facility must coordinate with appropriate state and local agencies for the educational and habilitative needs of the child. These services must

be age appropriate and appropriate to the cognitive level of the child. Services must also be individualized to meet the specific needs of the child and must be provided in an organized and proactive manner. Services may include but are not limited to school, active treatment for mental retardation, habilitative therapies, social skills and leisure activities. The services must be provided for a total of 2 hours per day, minimum.

B. D. In addition to the general criteria in subsection C, the child must meet require one of the following requirements three categories of care:

1. Comprehensive Rehabilitation Category: All of the following category criteria must be met to qualify for the comprehensive rehabilitation category.

a. Must require two out of three of the following rehabilitative services which are required at an acuity that is not available at the nursing facility level of care: Physical Therapy, Occupational Therapy, or Speech-pathology services; therapy must be provided at a minimum of 6 therapy sessions (minimum of 15 minutes per session) per day, 5 days per week; child must demonstrate progress in overall rehabilitative plan of care on a monthly basis; or.

b. Must receive a minimum of 450 therapy minutes per week. No more than 135 minutes on any one therapy day shall count toward the 450 weekly minutes. Daily therapy should not exceed a resident's ability to effectively participate in the therapeutic regime.

c. Must have a stable medical condition which is compatible with an active comprehensive rehabilitation program. In the event the recipient experiences an acute medical instability (one to two day illness or less) providers shall adjust the therapy regime to assure the required weekly 450 minute schedule is completed. If the resident's acute medical instability is too severe or too long to permit completion of the required weekly 450 minute schedule, the resident may be placed on a reduced therapy schedule. For the purposes of this subsection, the period during which the recipient is placed on a reduced therapy schedule is called "medical hold." The Department of Medical Assistance Services (DMAS) shall continue specialized care reimbursement in this category for one medical hold period, of no more than 3 days, per rehabilitation stay. To qualify for reimbursement, the medical hold or reduced therapy schedule must be ordered by the physician and the medical record must support that the resident, due to acute illness or acute medical instability, was unable to tolerate or reasonably make up the required therapy time toward the 450 required weekly minutes. If a resident should require more than one medical hold during a rehabilitative stay, DMAS shall determine, at its sole discretion, whether an additional medical hold period is permitted based on the resident's medical status and overall rehabilitative progress. If any period of

medical hold is not ordered by the physician and substantiated in the medical record as determined by DMAS, DMAS shall deny or retract reimbursement for such periods.

If the full 450 minutes of rehabilitation therapies are not provided during any seven day period without an acceptable, substantiated, and ordered "medical hold" period, the Department of Medical Assistance Services shall deny or retract specialized care reimbursement. If the resident does not receive the full 450 minutes of required therapy during a seven day week, the following reimbursement denial or retraction scale shall apply:

360-449 minutes received = 1 day retraction

270-359 minutes received = 2 days retraction

180-269 minutes received = 3 days retraction

90-179 minutes received = 4 days retraction

0-89 minutes received = 5 days retraction.

In addition to the above scale, if the resident is missing therapy time and is found not to be making significant measurable progress in the rehabilitation program, a full denial of specialized care reimbursement shall occur from the point that the resident is documented, as determined by DMAS, to have ceased making significant rehabilitation progress in the medical record.

d. Must be able to benefit from the services to be provided, based on physician assessment of rehabilitation potential, with the expectation that the condition of the resident will improve significantly in a reasonable and generally predictable period of time in accordance with medical practice standards; or, based on physician assessment, must require rehabilitative services to establish a safe and effective maintenance program provided for a specific medical diagnosis. Once a resident is no longer able to benefit from this level of rehabilitation, has ceased to make significant progress in the rehabilitation program, or once rehabilitation or maintenance programming can be provided at the nursing facility or other lower level of care, the resident must be discharged from the specialized care program.

e. Must demonstrate significant, measurable progress in the overall rehabilitative plan of care on a monthly (30 day) basis.

2. ~~Must require special equipment such as mechanical ventilators, respiratory therapy equipment (that has to be supervised by licensed nurse or respiratory therapist), monitoring device (respiratory or cardiac), kinetic therapy, etc., or Mechanical Ventilation Category:~~

a. The recipient must meet both of the following category criteria, and must meet the criteria specified in subdivisions b and c of this subsection if applicable

to the patient's treatment status, to qualify for the mechanical ventilation category.

(1) Must require daily mechanical ventilation which may be for all or a specified part of a 24-hour period.

(2) Must require a visit from a respiratory therapist at least once every 14 days.

b. If a CPAP (assist device with continuous positive airway pressure), BiPAP (intermittent assist device with inspiratory and expiratory positive airway pressure), or other similar mechanical respiratory assist device is used instead of a continuous mechanical ventilator, the resident must require other 24 hour specialized care services, such as frequent monitoring and nursing intervention for desaturation. A resident would not meet this (mechanical respiratory assist device) criteria if such device is only used without significant other medical/nursing needs which require specialized care.

c. If a resident has been successfully weaned from the support of a mechanical ventilator, the Department of Medical Assistance Services will continue specialized care reimbursement for up to five days after the resident has not been ventilator dependent for 24 hours. This five-day period begins after the resident completes a 24-hour period with no ventilatory support and demonstrates respiratory stability. If during the five days, the resident requires ventilatory support or demonstrates marked respiratory instability, the resident may continue in the Mechanical Ventilation Category until five consecutive days of respiratory stability are demonstrated. Continued instability must be documented by the physician in the medical record.

3. ~~Children that require Complex Health Care Category:~~ At least one of the following special services must be met to qualify for the complex health care category:

a. ~~Ongoing~~ Must require daily administration of intravenous pain management medications ~~or for terminal illness diagnoses, such as cancer, or must require intravenous nutrition (i.e., TPN, antibiotic therapy, narcotic administration, etc. Total Parenteral Nutrition).~~

b. Must require special infection control precautions ~~(universal or respiratory precaution; this does not include handwashing precautions only or isolation for normal childhood diseases such as measles, chicken pox, strep throat, etc.) that necessitate isolation with negative pressure ventilation or other specialized infection control interventions that cannot be adequately managed in a medically necessitated private room.~~

c. Must require dialysis treatment that is provided on-unit within the nursing facility (i.e., peritoneal dialysis).

d. Must require daily respiratory therapy treatments that must be provided by a skilled nurse or respiratory

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therapist. *The respiratory condition being treated must require chest physiotherapy (PT) followed by a nebulizer treatment 4 times per day and suctioning at least every 2 hours; or chest PT followed by a nebulizer treatment 4 times per day for a resident with a tracheostomy; or chest PT 4 times per day for a resident with a tracheostomy requiring suctioning at least every 2 hours; or nebulizer treatments 4 times per day for a resident with a tracheostomy; or ongoing assessment and monitoring of respiratory/cardiac status for a resident with a chest tube. Residents receiving these services must require a visit from a respiratory therapist at least once every 14 days.*

e. *Must require extensive wound care requiring debridement, irrigation, packing, etc., more than two times a day (i.e., grade IV decubiti for at least one stage IV pressure ulcer (decubitus); a large surgical wound that cannot be closed; or second or third degree burns covering more than 10% of the body). These wounds must require debridement, irrigation, packing, etc., more than two times per day or ongoing, consistent utilization of kinetic therapy (low air loss, air fluidized, or rotating or turning specialty beds) as ordered by the physician in combination with other appropriate, aggressive wound care treatment.*

f. *Must require ostomy care requiring the services by of a licensed nurse.*

g. *Must require care for terminal illness. The child's condition must be documented by the physician as terminal with life expectancy of less than six months.*

VA.R. Doc. No. R97-732; Filed August 14, 1997, 9:53 a.m.

STATE CORPORATION COMMISSION

AT RICHMOND, AUGUST 19, 1997

COMMONWEALTH OF VIRGINIA

at the relation of the

STATE CORPORATION COMMISSION

CASE NO. INS970158

Ex Parte, in re: adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance pursuant to Virginia Code §§ 38.2-3725, 38.2-3726, 38.2-2727 and 38.2-3730

ORDER ADOPTING ADJUSTED PRIMA FACIE RATES FOR THE TRIENNIUM COMMENCING JANUARY 1, 1998

PURSUANT to an order entered herein June 5, 1997, after notice to all insurers licensed by the Bureau of Insurance (Bureau) to transact the business of credit life and credit accident and sickness insurance in the Commonwealth of Virginia, the Commission conducted a hearing on July 15, 1997, for the purpose of considering any public or other comment on the adoption of adjusted prima facie rates for credit life and credit accident and sickness insurance proposed by the Bureau pursuant to the rate-making formulae set forth in Chapter 37 of Title 38.2 of the Code of Virginia and the Credit Insurance Experience Exhibits (CIEE's) filed by licensed credit insurers for the reporting years 1994, 1995 and 1996. Other than the Bureau, which was represented by its counsel, the sole person to appear in any capacity at the hearing was the Consumer Credit Insurance Association (CCIA) which was represented by its counsel.

ON RECOMMENDATION of the Bureau and CCIA at the hearing, the Commission ordered that (i) the Bureau contact the insurers upon whose reported data the proposed prima facie rates had been calculated to determine whether those insurers had correctly reported in their CIEE's their respective earned premiums at prima facie rates for the reporting years 1994, 1995 and 1996 and (ii) report back to the Commission no later than August 15, 1997.

ON AUGUST 15, 1997, the Bureau, with the concurrence of CCIA, (i) filed with the Clerk of the Commission a report

together with revised and amended adjusted prima facie rates based on the rate-making formulae set forth in Chapter 37 of Title 38.2 of the Code of Virginia and the amended CIEE's filed with the Bureau by certain credit insurers contacted by the Bureau as the result of the July 15 hearing and (ii) recommended that the Commission enter an order adopting the revised and amended adjusted prima facie rates for credit life and credit accident and sickness insurance for the triennium commencing January 1, 1998.

AND THE COMMISSION, having considered the record herein, the recommendations of the Bureau and CCIA and the law applicable hereto, is of the opinion, finds and ORDERS that the revised and amended adjusted prima facie rates for credit life and credit accident and sickness, which are attached hereto and made a part hereof, should be, and they are hereby, ADOPTED pursuant to the provisions of Chapter 37 of Title 38.2 of the Code of Virginia and shall be effective for the triennium commencing January 1, 1998.

AN ATTESTED COPY hereof, including the attachments hereto, shall be sent by the Clerk of the Commission to Kodwo Ghartey-Tagoe, Esquire, Mays & Valentine, P.O. Box 1122, Richmond, Virginia, 23218-1122, counsel for Consumer Credit Insurance Association; William F. Burfeind, Esquire, Consumer Credit Insurance Association, 542 South Dearborn Street, Suite 400, Chicago, Illinois 60605; and Deputy Insurance Commissioner Gerald A. Milsky who shall forthwith cause a copy hereof together with attachments to be sent all insurers licensed by the Bureau to transact the business of credit life and credit accident and sickness insurance in the Commonwealth of Virginia.

PRIMA FACIE CREDIT LIFE AND CREDIT ACCIDENT AND SICKNESS INSURANCE RATES
EFFECTIVE JANUARY 1, 1998

1998 CREDIT LIFE INSURANCE RATES

\$0.6129 per month per \$1,000 of outstanding insured indebtedness if premiums are payable on a monthly outstanding balance basis.

\$0.3913 per \$100 of initial indebtedness repayable in 12 equal monthly installments.

1998 CREDIT ACCIDENT & SICKNESS RATES

Single Premium Rates per \$100 of Initial Insured Indebtedness Repayable in Equal Monthly Installments

Benefit Period (Months)	<u>7-Day Coverages</u>		<u>14-Day Coverages</u>		<u>30-Day Coverages</u>	
	<u>Retroactive</u>	<u>Non-Retroactive</u>	<u>Retroactive</u>	<u>Non-Retroactive</u>	<u>Retroactive</u>	<u>Non-Retroactive</u>
1	1.44	1.09	1.34	0.83	1.01	0.45
2	1.73	1.39	1.57	1.07	1.15	0.60
3	1.94	1.60	1.75	1.25	1.26	0.71
4	2.09	1.75	1.88	1.39	1.35	0.81

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5	2.21	1.88	1.99	1.50	1.42	0.88
6	2.32	1.99	2.08	1.60	1.48	0.95
7	2.39	2.06	2.15	1.67	1.54	1.01
8	2.45	2.14	2.22	1.74	1.59	1.05
9	2.52	2.20	2.27	1.79	1.63	1.10
10	2.57	2.25	2.32	1.85	1.66	1.15
11	2.61	2.30	2.37	1.90	1.70	1.18
12	2.64	2.34	2.41	1.94	1.73	1.21
13	2.69	2.38	2.44	1.98	1.76	1.25
14	2.73	2.42	2.48	2.02	1.79	1.27
15	2.77	2.45	2.52	2.05	1.82	1.30
16	2.81	2.50	2.55	2.09	1.85	1.34
17	2.84	2.54	2.59	2.13	1.87	1.36
18	2.89	2.58	2.64	2.17	1.91	1.39
19	2.93	2.62	2.66	2.21	1.94	1.42
20	2.97	2.65	2.71	2.25	1.96	1.45
21	3.01	2.70	2.74	2.28	1.99	1.48
22	3.04	2.74	2.78	2.32	2.03	1.51
23	3.09	2.77	2.82	2.36	2.05	1.54
24	3.13	2.83	2.85	2.40	2.08	1.57
25	3.15	2.84	2.88	2.43	2.10	1.59
26	3.17	2.87	2.91	2.45	2.12	1.61
27	3.21	2.91	2.94	2.48	2.14	1.64
28	3.23	2.93	2.96	2.51	2.16	1.66
29	3.25	2.96	2.98	2.54	2.19	1.67
30	3.29	2.98	3.01	2.56	2.20	1.70
31	3.31	3.02	3.04	2.58	2.23	1.73
32	3.34	3.04	3.06	2.62	2.25	1.74
33	3.36	3.06	3.09	2.64	2.26	1.76
34	3.39	3.10	3.11	2.66	2.29	1.79
35	3.42	3.12	3.14	2.70	2.32	1.81
36	3.44	3.15	3.16	2.72	2.33	1.83
37	3.47	3.17	3.19	2.74	2.34	1.85
38	3.49	3.19	3.21	2.77	2.37	1.86
39	3.51	3.22	3.23	2.78	2.38	1.88
40	3.54	3.24	3.25	2.81	2.40	1.90
41	3.55	3.26	3.27	2.84	2.42	1.93
42	3.57	3.28	3.30	2.85	2.44	1.94
43	3.60	3.30	3.32	2.88	2.45	1.95
44	3.62	3.33	3.34	2.90	2.47	1.98
45	3.64	3.35	3.36	2.92	2.49	1.99
46	3.66	3.37	3.38	2.94	2.51	2.01
47	3.69	3.39	3.40	2.97	2.52	2.04
48	3.70	3.42	3.43	2.98	2.54	2.05
49	3.73	3.44	3.44	3.01	2.55	2.06
50	3.74	3.45	3.46	3.03	2.57	2.08
51	3.75	3.47	3.48	3.04	2.58	2.10
52	3.78	3.49	3.49	3.06	2.60	2.12
53	3.80	3.51	3.52	3.09	2.62	2.13
54	3.82	3.54	3.54	3.10	2.64	2.14
55	3.84	3.55	3.55	3.12	2.64	2.16
56	3.85	3.57	3.56	3.14	2.66	2.18
57	3.88	3.59	3.59	3.16	2.68	2.19
58	3.89	3.61	3.61	3.18	2.70	2.21
59	3.91	3.63	3.62	3.20	2.71	2.23
60	3.94	3.64	3.64	3.22	2.73	2.24
61	3.94	3.66	3.66	3.24	2.74	2.25
62	3.96	3.69	3.68	3.25	2.75	2.27
63	3.98	3.70	3.69	3.27	2.77	2.29

State Corporation Commission

64	4.00	3.72	3.71	3.29	2.78	2.31
65	4.02	3.74	3.73	3.30	2.80	2.32
66	4.03	3.75	3.74	3.32	2.81	2.33
67	4.04	3.76	3.75	3.34	2.83	2.34
68	4.06	3.79	3.77	3.36	2.84	2.36
69	4.08	3.81	3.79	3.37	2.85	2.38
70	4.10	3.82	3.82	3.39	2.86	2.39
71	4.12	3.84	3.83	3.41	2.88	2.41
72	4.14	3.85	3.84	3.43	2.90	2.42
73	4.14	3.87	3.86	3.44	2.91	2.44
74	4.16	3.88	3.87	3.46	2.92	2.44
75	4.17	3.90	3.88	3.48	2.94	2.46
76	4.19	3.92	3.90	3.49	2.95	2.47
77	4.21	3.94	3.92	3.50	2.96	2.49
78	4.22	3.94	3.94	3.52	2.97	2.51
79	4.24	3.96	3.94	3.54	2.98	2.51
80	4.25	3.98	3.96	3.55	3.00	2.53
81	4.27	4.00	3.98	3.56	3.02	2.54
82	4.28	4.02	4.00	3.58	3.03	2.56
83	4.30	4.03	4.02	3.60	3.04	2.57
84	4.32	4.04	4.02	3.62	3.05	2.58
85	4.33	4.06	4.04	3.63	3.06	2.60
86	4.34	4.08	4.05	3.64	3.08	2.61
87	4.35	4.08	4.07	3.66	3.09	2.63
88	4.37	4.10	4.08	3.68	3.10	2.64
89	4.38	4.12	4.09	3.69	3.11	2.64
90	4.40	4.14	4.11	3.70	3.13	2.66
91	4.41	4.14	4.13	3.72	3.14	2.67
92	4.43	4.15	4.14	3.74	3.15	2.69
93	4.44	4.17	4.14	3.75	3.16	2.70
94	4.45	4.19	4.16	3.76	3.17	2.71
95	4.47	4.21	4.18	3.78	3.18	2.73
96	4.48	4.22	4.19	3.79	3.20	2.74
97	4.49	4.23	4.21	3.81	3.21	2.75
98	4.51	4.24	4.22	3.82	3.22	2.76
99	4.52	4.26	4.23	3.84	3.23	2.77
100	4.54	4.27	4.24	3.84	3.24	2.78
101	4.54	4.28	4.25	3.86	3.25	2.80
102	4.55	4.30	4.27	3.88	3.26	2.81
103	4.57	4.32	4.28	3.88	3.27	2.83
104	4.59	4.33	4.29	3.90	3.29	2.84
105	4.60	4.34	4.31	3.92	3.30	2.84
106	4.61	4.35	4.33	3.94	3.31	2.85
107	4.62	4.36	4.34	3.94	3.32	2.87
108	4.64	4.38	4.34	3.95	3.34	2.88
109	4.65	4.40	4.35	3.97	3.34	2.89
110	4.66	4.41	4.37	3.98	3.35	2.91
111	4.67	4.42	4.38	4.00	3.36	2.91
112	4.68	4.43	4.40	4.01	3.37	2.93
113	4.70	4.44	4.41	4.02	3.38	2.94
114	4.71	4.45	4.42	4.03	3.39	2.94
115	4.73	4.47	4.43	4.04	3.41	2.96
116	4.74	4.47	4.44	4.06	3.42	2.97
117	4.74	4.49	4.45	4.07	3.43	2.98
118	4.75	4.51	4.47	4.08	3.44	2.99
119	4.77	4.52	4.47	4.09	3.44	3.00
120	4.78	4.54	4.49	4.11	3.45	3.02

VA.R. Doc. No. R97-734; Filed August 22, 1997, 11:09 a.m.

GOVERNOR

EXECUTIVE ORDER NUMBER SEVENTY-THREE (97)

PROMULGATION OF THE COMMONWEALTH OF VIRGINIA EMERGENCY OPERATIONS PLAN

By virtue of the authority vested in me by Section 44-146.17 of the *Code of Virginia* as Governor and as Director of Emergency Services, I hereby promulgate and issue the Commonwealth of Virginia Emergency Operations Plan ("the Plan"), dated 1997, which provides for a state government response to emergencies and disasters wherein assistance is needed by affected local governments in order to save lives; to protect public health, safety, and property; to restore essential services; and to effect an economic recovery.

The State Coordinator of Emergency Services, on behalf of the Governor, is hereby authorized to activate the State Emergency Operations Center (EOC) in order to direct and control state government emergency operations. Activation of the State EOC shall constitute implementation of the Plan.

In accordance with the duties and responsibilities assigned in the plan, each designated state department or agency shall:

- (1) prepare and maintain the part(s) of the Plan for which it is responsible;
- (2) conduct an on-going training program and participate in exercises as needed in order to maintain an appropriate emergency response capability;
- (3) in time of emergency, implement emergency response actions as required and in coordination with the State EOC; and
- (4) assist with post-disaster restoration and recovery operations as required.

The Plan is consistent with the Commonwealth of Virginia Emergency Services and Disaster Law of 1973 (Chapter 3.2, Title 44 of the *Code of Virginia*) and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended) and its implementing regulations.

This Executive Order rescinds the following three Executive Orders issued in 1990 by Governor Lawrence Douglas Wilder: Number 19 (90), Promulgation of Volume II, Emergency Operations Plan for Peacetime Disasters; Number 20 (90), Promulgation of the Commonwealth of Virginia Emergency Operations Plan, Volume III, Operational Survival Plan for War-Caused Disasters; and Number 26 (90), Promulgation of the Commonwealth of Virginia Emergency Operations Plan, Closing of the Chesapeake Bay Bridge-Tunnel.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 9th day of May, 1997.

/s/ George Allen
Governor

VA.R. Doc. No. R97-735; Filed August 25, 1997, 11:11 a.m.

EXECUTIVE ORDER NUMBER SEVENTY-FOUR (97)

CREATING THE GOVERNOR'S COMMISSION ON VIRGINIANS HELPING VIRGINIANS: VOLUNTEERISM AND COMMUNITY SERVICE

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § 2.1-51.36 of the *Code of Virginia* and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby create the Governor's Commission on Virginians Helping Virginians: Volunteerism and Community Service.

The Commission is classified as a gubernatorial advisory commission in accordance with §§ 2.1-51.35 and 9-6.25 of the *Code of Virginia*.

The Commission shall advise the Governor on matters related to the promotion and development of all types of citizen service and volunteerism in the Commonwealth of Virginia, the application for federal funds for national service, and fostering a sense of civic duty in serving fellow Virginians. The Commission shall have the following specific duties:

1. To advise the entity which provides oversight for national services programs in Virginia, fulfilling the responsibilities and duties prescribed by the federal Corporation for National Service;
2. To advise regarding the development, implementation, and evaluation of Virginia's state plan which outlines strategies for supporting and expanding voluntary service throughout the Commonwealth;
3. To advise regarding the adaptation of the Americorps national service program to meet the priorities of Virginia citizens, establishing a network which can address local community needs related to welfare reform, public safety matters, conservation of natural resources, education of youth, and other initiatives;
4. To serve as an advisory body to the Governor, the Secretary of Health and Human Resources, and to the Commissioner of the Department of Social Services for the purpose of strengthening all aspects of community volunteerism in Virginia; and
5. To recognize and call attention to the significant voluntary contributions of Virginia citizens and organizations.

The Commission shall be comprised of 15 to 25 voting members appointed by the Governor and serving at his pleasure. No more than 25 percent of voting members may be state employees. Additional persons may be appointed by the Governor as ex-officio non-voting members. The

Chairperson shall be elected by the voting members of the Commission. Commission voting membership shall include representatives for the categories as outlined in federal regulations issued by the Corporation for National Service.

Such staff support as is necessary for the conduct of the Commission's work during the term of its existence shall be furnished by the Virginia Department of Social Services and other state agencies with closely and definitely related purposes as the Governor may designate. An estimated 6,000 hours of staff time will be required to support the work of the Commission. Funding necessary to support the Commission's work shall be provided from federal funds, private contributions, and state funds appropriated for the same purposes as the Commission, authorized by § 2.1-51.37 of the *Code of Virginia*. Direct expenditures for the Commission's work are estimated at \$11,250.

Members of the Commission shall serve without compensation and shall receive reimbursement for expenses incurred in the discharge of their official duties only upon the approval of the Commissioner of the Virginia Department of Social Services.

The Commission shall meet at least quarterly upon the call of the Chairperson. The Commission shall make a report to the Governor in December 1997 and shall issue such other reports and recommendations as it deems necessary or as requested by the Governor.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until January 1, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 27th day of May, 1997.

/s/ George Allen
Governor

VA.R. Doc. No. R97-736; Filed August 25, 1997, 11:11 a.m.

EXECUTIVE ORDER NUMBER SEVENTY-FIVE (97)

THE GOVERNOR'S COMMISSION ON PHYSICAL FITNESS AND SPORTS

By virtue of the authority vested in me under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Sections 2.1-41.1, 2.1-51.36, and 2.1-387 of the *Code of Virginia* and subject always to my continuing and ultimate authority to act in such matters, I hereby create the Governor's Commission on Physical Fitness and Sports.

The Commission is classified as a gubernatorial advisory commission in accordance with Sections 2.1-51.35 and 9-6.25 of the *Code of Virginia*.

The Commission shall have the responsibility to advise the Governor on all matters related to sports, health, and physical fitness in the Commonwealth. The Commission's work may include, without limitation, the following activities:

1. To advise the Governor on all matters relating to sports, competition, health and nutrition education, exercise, and physical fitness,
2. To increase appreciation for and public knowledge of the importance of physical fitness for all of Virginia's families,
3. To enhance the Commonwealth's efforts to educate our youth, adults, and senior citizens about physical fitness as it relates to health, a productive life style, and a better standard of living,
4. To represent the Governor and his commitment to the importance of good physical fitness at functions relating to better health and fitness for Virginians,
5. To coordinate and facilitate the Commonwealth's participation in programs currently existing through the President's Council on Physical Fitness and Sports and to develop similar projects, where appropriate, for Virginia,
6. To survey and assess state fitness facilities and programs, to determine appropriate levels of utilization, and to develop new and better opportunities for access to fitness equipment,
7. To plan projects and events to benefit the concerned State agencies for the promotion of physical fitness, health and nutrition education, sports, and competition. Such projects and events may include, without limitation, public service campaigns, clinics, and conferences.

This Commission shall further be authorized to become a member of the National Association of Governors' Councils on Physical Fitness and Sports.

The Commission shall be comprised of not more than thirty members to be appointed by the Governor and serving at his pleasure. The Governor shall designate an Honorary Chairman, a Chairman, and a Vice Chairman to serve at his pleasure.

Members of the Commission shall serve without compensation but may receive reimbursement for expenses incurred in the discharge of their official duties upon approval of the Secretary of Administration.

The Commission will meet as necessary and may appoint an executive committee to meet on a more timely basis.

Such staff support as is necessary for the Commission's work during the term of its existence shall be furnished by the Office of the Governor, the Offices of the Governor's Secretaries, the Department of Health, the Department of Conservation and Recreation, and such other executive agencies with closely and definitely related purposes as the Governor may designate. An estimated 3,000 hours of staff support may be required to support the Commission. Funding necessary to support the Commission's work shall be provided from sources, including both private contributions and state funds appropriated for purposes related to the work of the Commission, as authorized by Section 2.1-51.37 of the

Governor

Code of Virginia. Direct expenditures for the Commission's work are estimated at \$10,000.

The Commission shall complete its work by May 28, 1998, subject to issuance of an appropriate continuation order pursuant to Section 2.1-51.37 of the *Code of Virginia*. The Commission shall also issue an interim report on its accomplishments to the Governor no later than December 1, 1997. The Commission shall issue other reports and recommendations at such times as it deems appropriate or upon the request of the Governor.

This Executive Order shall be effective upon its signing and shall remain in full force and effect until May 28, 1998, unless amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 29th day of May, 1997.

/s/ George Allen
Governor

VA.R. Doc. No. R97-737; Filed August 25, 1997, 11:11 a.m.

EXECUTIVE ORDER NUMBER SEVENTY-SIX (97)

ENFORCING ITEM VETO OF BUDGET PROVISION

By virtue of the authority vested in me by Article V, § 6 (d) of the Constitution of Virginia and pursuant to my continuing duty to see that the laws and Constitution of Virginia are faithfully upheld, I hereby declare that Item 390.G as printed in the Appropriation Act (Chapter 924, 1997 Virginia Acts of Assembly) (hereinafter the "Act") is null, void and of no force nor effect, and I direct all agencies of Virginia government to disregard said provision as printed in the Act. I also direct all state agencies to observe April 2, 1997, as the effective date of the Act.

1. On March 24, 1997, I signed House Bill 1600, as the Act's antecedent legislation was then designated, but pursuant to my authority under Article IV, § 12 and Article V, § 6 (d) of the Constitution of Virginia, I returned it to the House of Delegates with eleven (11) item vetoes. My reasons for those item vetoes were set forth in my letter to the House of Delegates, which I append to this Order as Appendix One (1).

2. On April 2, 1997, at the Reconvened Session of the General Assembly, the Speaker of the House of Delegates ruled that two (2) of my vetoes were not valid item vetoes, but amendments (Items 291.B and 390.G). I regard as incorrect the Speaker's view that my item vetoes were invalid, the Speaker's opinion that he had the power to declare procedurally that they were invalid and refuse to permit them to be considered by the House in accordance with the Constitution, and his view that he had the power to redesignate gubernatorial item vetoes as proposed amendments.

3. Following the Reconvened Session, House Bill 1600 was reenrolled by the Keeper of the Rolls and returned to me in an improper form. Since I had proposed no

amendments to House Bill 1600 and since none of my item vetoes had been overridden, House Bill 1600 was not properly before me following the Reconvened Session. House Bill 1600 had gone into effect on April 2, 1997, the date of the Reconvened Session. Additionally, the Keeper of the Rolls failed to print Items 291.B and 390.G in the bill with notations indicating the Governor had vetoed them.

4. On April 30, 1997, purely as a contingent measure, I signed again House Bill 1600 and returned it to the House of Delegates. My letter to the House of Delegates on April 30, 1997, laying out my reasoning for acting on the bill in a contingent fashion is attached to this Order as Appendix Two (2).

5. Subsequently, the Keeper of the Rolls reprinted House Bill 1600, redesignated as Chapter 924, 1997 Virginia Acts of Assembly. Items 291.B and 390.G should have been reprinted in the Act together with the printed notation indicating that I had vetoed them. The Keeper of the Rolls again failed to do so. Additionally, printed on the cover and on Page One (1) was the notation "Approved April 30, 1997."

For the reasons set forth above and in my letters to the House of Delegates that are appended to this Order, I regard Items 291.B and 390.G as effectively and properly vetoed under Article IV, § 12 and Article V, § 6 (d) of the Constitution of Virginia. Item 390.G was reprinted in the Act improperly, and I hereby direct that it shall be disregarded by the agencies of state government. Item 291.B was not reprinted, so its enforcement is moot, although it should have been reprinted in the Act with my veto notation. I also find that the Act took effect on April 2, 1997, the date of the Reconvened Session, when the House of Delegates failed to override any of my eleven (11) item vetoes, and I direct the agencies of state government to observe April 2, 1997, as the effective date of the Act.

This Executive Order shall be effective retroactive to April 2, 1997, and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the seal of the Commonwealth of Virginia this 21st day of July, 1997, in the 222nd year of this Commonwealth.

/s/ George Allen
Governor

Appendices (2)

House Bill 1600
Page Two

Appendix One

My reasons for each of the eleven item vetoes are set out below.

COMMONWEALTH of VIRGINIA

Office of the Governor

Item 92

Department of Housing and Community Development

March 24, 1997

TO THE HOUSE OF DELEGATES

HOUSE BILL NO. 1600

I have signed House Bill No. 1600, amending the appropriations made last year for the 1996-98 biennium, with eleven item vetoes.

First, let me indicate that I am very pleased with the overall budget, which adequately funds our Commonwealth's priorities in education, public safety, economic development and environmental protection. I am also pleased that, as I requested, this budget contains no new authorization for tax-supported debt. However, I do have some objections which I will detail below.

In particular, I am opposed to continuing the practice of making contingent appropriations, of which there are seven in this bill. As I stated in my letter to the budget conferees before the budget conference began, this is a method of authorizing expenditures in excess of revenues, which in effect makes these appropriations of higher priority than those for education, public safety and state employees. In plain terms, this means that current expenditures are proposed to be financed by drawing down on potential savings and reserves other than current revenues identified in the enrolled appropriation bill. This is not honest budgeting and runs counter to Virginia's tradition of sound and conservative fiscal management. I am very concerned that this practice could be viewed as a form of deficit financing by the financial community and others who monitor Virginia's fiscal operations. Therefore, I have vetoed the contingent appropriations in Items 92, 312, 350, 530 and C-66.20 of the bill.

The enrolled bill contains numerous language provisions that are not germane to the Appropriation Act. They do not effectively qualify the amount or purpose of any spending item, and they are entirely separable from the bill without affecting its other purposes or provisions. I view such provisions as subject to my veto under Article IV, §12 and Article V, §6 of the Constitution of Virginia. Accordingly, I have vetoed certain language amendments.

I have vetoed the second sentence of Paragraph G. This language provides a contingent appropriation of unknown amount from the Economic Contingency appropriation in Item 530, to avoid the proration of benefits if general fund appropriations for Enterprise Zone job grants prove insufficient. As you well know, my administration has been an ardent proponent of Enterprise Zones and has succeeded in doubling the number allowed in Virginia from twenty-five to fifty. Enterprise Zones are economic object lessons in that they prove that lower tax and regulatory burdens foster more investment and more jobs. However, this contingent appropriation is not needed since the Enterprise Zone grants are fully funded, based on our current projections, within the dollars appropriated in Item 92. If for some reason additional amounts are needed, I am fully committed to the Enterprise Zone Job Grants program and will use my administrative capability to deal with this issue through my authority to transfer funds among programs. As now worded, the release of the appropriation is mandated from the Economic Contingency account if additional funds are needed, regardless of potential demands on that account or the desirability of maintaining a balance in that account for unforeseen requirements.

Item 291

Secretary of Health and Human Resources

As I have stated repeatedly, I oppose any weakening or backsliding on welfare reform and thus I have vetoed the amendment designated as Paragraph B. I view this language as stand-alone legislation that does not effectively qualify or condition an appropriation. It requires the Secretary of Health and Human Resources to create a task force on welfare reform whose major purpose would be to revisit issues which were the subject of legislation which failed in the 1997 Session. I also object to the broad nature of this mandate, which will commit and waste the time of a number of state officials and state agencies in studying matters related to welfare reform. I believe that the proposed task force is undesirable and only a pretense for future weakening of our laws which require work and personal responsibility. Further, the wide-ranging list of subjects which it would study precludes a thorough and balanced report by the required date of December 1, 1997. In summary, the motivation behind this study language is obvious: to try to lay the groundwork to undermine one of the nation's most principled and successful welfare reform programs. Consequently, I have vetoed it.

House Bill 1600
Page Three

Item 312
Department of Health

I have vetoed Paragraph F. It requires that funding of an unknown amount be provided from the unappropriated balance in the act to fund poison control centers, if the sum of \$1,053,000 appropriated for this purpose in the enrolled bill should prove insufficient. The release of this appropriation is mandated and could unacceptably reduce the small unappropriated general fund balance of \$3,893,008 in the enrolled bill. Should additional funding be required, Virginians will be best served if we use our informed judgment at the time to determine the source from which the funds should be transferred. Please be assured that if additional funds are needed to fund the important poison control services, I will provide them administratively through my general authority.

Item 350
Department of Mental Health, Mental Retardation and Substance Abuse Services

I have vetoed the language requiring that funding of an unknown amount be furnished from the unappropriated balance in the act or from unexpended balances of all agencies as of June 30, 1997, to provide for additional positions at the Northern Virginia Mental Health Institute in connection with agreement, litigation or settlement with the U.S. Department of Justice. This contingent appropriation is mandated and will reduce funds available for agency use for other needs specified by the General Assembly, such as the Health Insurance Fund surcharge, if the appropriation is taken from agency balances. Moreover, if the funds are taken from the unappropriated general fund balance, the result will be to reduce the small balance of \$3,893,008 in the enrolled bill even further. I can deal with this issue through my general authority to transfer between closely and definitely related appropriation items, and I shall do so.

Item 390
Department of Social Services

I have vetoed Paragraph G. It directs that the work participation requirement for full-time students in education and training may be satisfied with eight hours per week of Community Work Experience Program service, if eight-hour-per-week work is not available in the private sector. It removes the flexibility of the Department of Social Services to meet workforce participation requirements under federal welfare reform. If Virginia's welfare reform program is to be responsibly managed, the affected executive agencies must have the ability to determine the details of policy implementation in relation to legal requirements. Like the similar welfare language provision mentioned above, this is an attempt to revive legislation that failed on the floor of the House of Delegates. This language purports by its opening clause to be a condition on an

House Bill 1600
Page Four

Item 508
Department of Transportation

appropriation. But that is merely a masquerade, an attempt to elevate form over substance for the obvious purpose of trying to shield this language from my veto. In actuality, this language is stand-alone legislation and thus subject to a veto under Article IV, §12 and Article V, §6 of the Constitution.

I have vetoed Paragraph B. It provides a subsidy for tolls levied on vehicles with three or more axles for transit across the Coleman Bridge and for this purpose establishes a sum sufficient appropriation to be funded from the Transportation Trust Fund. The proposal has troubling constitutional implications and would be unwieldy to administer. Instead, I have requested the Commonwealth Transportation Board to act administratively to reduce the tolls levied for the Coleman Bridge, ensuring equitable treatment of all travelers who use the bridge. The Board has done so, rendering this paragraph and this issue moot.

Item 530
Central Appropriations

I have vetoed Paragraph O. It contains a contingent appropriation for \$700,000 for payment to the City of Roanoke purportedly for "retaining a major employer." There are two reasons for my action. First, the expenditure cannot be justified on economic development grounds. Procedures and criteria for evaluating the use of incentives and the resulting economic benefits have been developed in consultation with the General Assembly, and earmarking funds in this manner circumvents those procedures and criteria. Second, contingent appropriations constitute bad fiscal policy which may be viewed by the financial community as akin to a form of deficit financing. This amendment is a contingent appropriation which makes a first claim on any additional revenues received in fiscal 1997 above the budget estimate, regardless of other priorities. The release of this appropriation is required before actions can be taken to properly reserve for additional payments into the Revenue Stabilization Fund and for required reappropriation of agency balances. Moreover, it is possible for this appropriation to be released even though the Commonwealth does not achieve a surplus on June 30, 1997, if additional revenue is required to meet sum sufficient and emergency items in the budget.

House Bill 1600
Page Five

Item 530
Central Appropriations

I have vetoed Paragraph S. It contains a contingent appropriation for payment of \$1,000,000 to the Hampton Roads Sports Facility Authority as the state's contribution towards the construction of the sports facility. I support this facility, and I have recently signed into law House Bill 2741, which provides proper financing arrangements for this facility. Contingent appropriations constitute bad fiscal policy which may be viewed by the financial community as akin to a form of deficit financing. This amendment is a contingent appropriation which makes a first claim on any additional revenues received in fiscal 1997 above the budget estimate, regardless of other priorities. The release of this appropriation is required before actions can be taken to reserve properly for additional payments into the Revenue Stabilization Fund and for required reappropriation of agency balances. Moreover, it is possible for this appropriation to be released even though the Commonwealth does not achieve a surplus on June 30, 1997, if additional revenue is required to meet sum sufficient and emergency items in the budget. The Commonwealth will continue to contribute through the income tax and sales tax toward the construction of this facility.

Item 530
Central Appropriations

I have vetoed Paragraph T. It contains a contingent appropriation for payment of \$1,000,000 to the Virginia Housing Partnership Loan Program. Contingent appropriations constitute bad fiscal policy which may be viewed by the financial community as akin to a form of deficit financing. This amendment is a contingent appropriation which makes a first claim on any additional revenues received in fiscal 1997 above the budget estimate, regardless of other priorities. The release of this appropriation is required before actions can be taken to properly reserve for additional payments into the Revenue Stabilization Fund and for required reappropriation of agency balances. Moreover, it is possible for this appropriation to be released even though the Commonwealth does not achieve a surplus on June 30, 1997, if additional revenue is required to meet sum sufficient and emergency items in the budget.

Item C-35.40
Christopher Newport University

I have vetoed this item which provides \$500,000 from the taxpayers of Virginia through the general fund and \$900,000 from the higher education operating fund to acquire parcels of land which may become available within the master plan of the University, or which, with the approval of the Governor, may be used to purchase a new home for the President of the University. While I am not averse to providing additional funds to Christopher Newport University, I am of the opinion that the existing CNU President's

House Bill 1600
Page Six

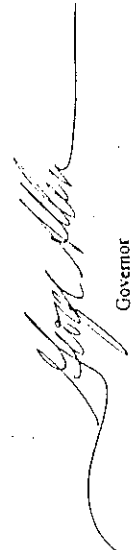
home on the campus is more than adequate. If we are to continue meeting the needs of our Virginians for higher education, spending priorities must be established. A new off-campus home for the President is neither desirable or needed. If land is needed and becomes available within the University's master plan, its acquisition can be accomplished through administrative action, while also looking to protect the students from paying unnecessarily higher fees.

Item C-66.20
Department of Corrections

I have vetoed this item, which provides a contingent appropriation of \$6,000,000 from unexpended, unobligated balances for equipment at three new prisons. As you certainly know, over the years these are three prisons, especially Red Onion and Wallen's Ridge, which I have worked hard to see constructed. However, for reasons which I have stated elsewhere in this message, the use of contingent appropriations is unwise fiscal policy, which should be discouraged. If the Department of Corrections is unable to absorb the cost of the equipment, I have authority under Item 462 of the Appropriation Act to transfer funds from other appropriations for that purpose, and no prisons currently under construction will be delayed in opening.

Part 2: Capital Project Expenses

Finally, there are several new capital projects in this bill which have not undergone the detailed review of our capital budget process. Although these projects certainly violate the spirit of the restrictions in the 1986 Appropriation Act (§4-1.01 b.), which limit consideration of capital projects in the short session to emergency projects or to supplements to previously approved projects, I am taking no action on them at this time. However, before I actually initiate these projects, they will be evaluated in terms of their impact on student fees, the Commonwealth's debt capacity, ongoing operating costs and their methods of financing. If the evaluation identifies issues or problems, I will address them appropriately before proceeding with the project. In other words, I will move carefully on these projects in a responsible manner that does not undermine the fiscal discipline of our capital review process and in a manner that rewards thoughtful long-term capital planning by our agencies and institutions.



Governor

To the House of Delegates
House Bill No. 1600
Page 2



COMMONWEALTH of VIRGINIA

Office of the Governor

April 30, 1997

George Allen
Governor

TO THE HOUSE OF DELEGATES:

HOUSE BILL NO. 1600

It is my position that House Bill 1600 is not legally before me today, pursuant to any power of the legislature, since I proposed no amendments to this bill and the General Assembly overrode none of my vetoes at the Reconvened Session on April 2, 1997. However, the bill has been re-enrolled and the Speaker of the House of Delegates and the President of the Senate have signed it, thus indicating that they take a different view of the Constitution of Virginia -- namely, that the Speaker of the House, notwithstanding the absence of supporting constitutional language, case authority or legislative precedent, can act to rewrite a gubernatorial veto to convert it into an amendment.

I emphatically reject the Speaker's view that my item vetoes of Item 291B and Item 390.G were invalid; his view that he has the power to declare procedurally that they were invalid and refuse to permit them to be considered by the House in accordance with the Constitution; and his view that he has the power to redesignate gubernatorial item vetoes as proposed amendments. Those are issues for the courts to resolve. In the meantime, I am acting on this bill today only as a contingent measure, in case a court may subsequently rule that the bill is validly back before me. I wish to make it clear, however, that in my view this bill is not back validly before me, the Appropriation Act having taken effect as law on April 2, 1997. Upon the General Assembly's failure to override any of my eleven vetoes, the act contains none of those eleven items.

Following the Reconvened Session, when the Clerk of the House of Delegates printed House Bill 1600, the two aforementioned vetoed provisions should have been printed with the margin notations that I made on March 24, 1997: "I veto this item," as the other nine vetoed items were printed. After April 2, 1997, the Clerk had no authority for failing to carry out his ministerial duties, pursuant to Section 30-14 et seq. of the Code of Virginia. The Clerk failed to fulfill his duties in two respects;

first, by re-enrolling Item 390.G, which I had vetoed on March 24, 1997, without the accompanying veto notation that was included in the bill that I sent to the House on March 24, 1997, and second, by failing to re-enroll Item 291.B with the accompanying veto notation that was included in the bill that I sent to the House on March 24, 1997.

On the underlying substantive issue, I made it absolutely clear in my State of the Commonwealth Address last January that I would veto any backsliding or weakening of our successful, pro-work welfare reform. On March 24, 1997, I vetoed the undesirable provision that was inserted in the budget after similar weakening measures were defeated on the House floor. The language provision that was inserted in the budget did not condition nor restrict any appropriation, and represented an obvious effort to slip harmful legislation into the budget bill after it had failed in the normal legislative process. I repeat and reaffirm my veto of that provision today for the sake of clarity and public understanding, but I do not acquiesce in the Speaker's unfounded abuse of the constitutionally mandated legislative process.

As I have said repeatedly, I will not allow Virginia's successful welfare reform program to be undermined by efforts to chip away at one of its key components: the requirement to work in return for taxpayer-funded benefits.

Governor

The Legislative Record

Volume 7 No. 3

August 1997

HJR 532

Commission on State and Local Government Responsibility and Taxing Authority

July 24, 1997, Richmond

The tangible personal property tax, the personal income growth outlook for citizens of the Commonwealth, and budget pressures were the main topics of discussion during the commission's meeting in Richmond. Lieutenant Governor Donald Beyer presented his personal property/income tax credit plan, followed by three economists who discussed their outlooks for personal income growth over the next five years. The assistant commissioner of finance for the Virginia Department of Transportation (VDOT), discussed VDOT's mandatory expenditures, priorities, and funding for the next two biennia. Finally, staff from the House Appropriations Committee updated the commission regarding budget pressures, particularly in the area of public education.

Beyer's Plan

Under the Lieutenant Governor's plan, single taxpayers with annual adjusted gross income up to \$40,000 would receive an income tax credit of up to \$150 for personal property tax paid on one motor vehicle. Married couples with annual adjusted gross income up to \$75,000 would receive a tax credit up to \$250. Individuals who do not pay income tax would not receive the credit. Like former Attorney General James Gilmore's plan, the credit allowed would only apply to personal property tax paid on privately owned vehicles.

The cost of the Beyer plan is estimated to be \$202 million annually or \$808 million over the next four years.

Economists' Predictions

Economists from George Mason University, the Weldon Cooper Center for Public Service at the University of Virginia, and the College of William & Mary offered their best estimates regarding the outlook for personal income growth among Virginians.

Northern Virginia Forecast

While a strong economic performance in Northern Virginia does not necessarily mean the state's economy will also prosper, it is difficult for the state to maintain expansion without continued growth in Northern Virginia's economy. Northern Virginia's share of Virginia's total personal income was 35 percent in 1996. Strong job growth during the last five years has resulted in low unemployment, with the highest area unemployment rate in May being 3.7 percent in Warren County, while the state rate was 4.2 percent. Because Northern Virginia's economy is expected to continue a strong expansion pattern for the next three years at a

- 3 SJR 350: Planning and Budget Process
- 5 SR 29: On-Farm Sales
- 6 Agricultural and Forestal Districts
- 8 SJR 300: Library of Virginia
- 9 SJR 259: Taxation of Electric Utilities
- 11 SJR 259: Electric Utility Restructuring
- 13 Small Business Commission

VIRGINIA DIVISION OF LEGISLATIVE SERVICES

Volume 13, Issue 26

Monday, September 15, 1997

minimum, the state's economic expansion is also expected to continue for the same period.

There are some unknowns, however, which could affect the state's economic performance. They are federal spending, the labor market, interest rates and inflation, the national economy's performance, and global stability. Any negative change in these factors would most likely reduce expected growth.

Statewide Forecast

Predictions for average statewide personal income growth rate over the next six to eight years ranged from 5.2 percent to 5.6 percent. Both economists' predictions included inflation as a factor, both took into account historical rates of growth, and both examined forecasts by the WEFA Group and NPA Data Services.

It was also brought to the attention of the commission that even if personal income growth does continue for the next few years, the localities do not directly benefit from such growth. It is logical to assume that along with personal income growth comes an increase in state revenues due to an increase in the amount of income taxes paid. There are, however, no local income taxes. Will taxpayers consume more, thereby causing an increase in sales tax collections, a portion of which is returned to the localities? Will taxpayers spend their money on more real and personal property, thereby increasing real and personal property tax collections? There is no way to be sure. So what is good for the Commonwealth may or may not be as good for its localities.

VDOT Expenditures, Priorities and Spending

VDOT is responsible for maintaining and constructing the third largest state maintained system in the nation, with over 65,000 miles of highways (interstate, primary, secondary, frontage and urban). It is financed from federal, state, and local taxes and tolls and other revenues. Ninety-five percent of state sources are produced by the motor fuels tax, motor vehicle sales and use tax, motor vehicle license fees and state general sales and use tax.

The Commonwealth Transportation Funds have grown an average of 3.1 percent annually for the last 10 years. They are expected to increase at an average annual rate of 2.5 percent over the next six years, from \$1.6 billion in fiscal year 1998 to \$1.83 billion in fiscal year 2003. Total federal transportation funding for distribution nationally, depending on currently pending federal legislation, is expected to be between \$19 billion and \$21.5 billion in 1998. For Virginia, current revenue estimates assume an average of \$500 million per year for fiscal years 1999-2003.

According to a recently completed needs assessment, VDOT identified total highway needs of \$46.7 billion. This assess-

ment is an update of the 1994 Moderate Needs Inventory, which identified \$34.7 billion of highway needs.

Budget Pressures Update

Little change in the bottom line occurred since the last meeting of the commission. Required cost increases for the 1998-2000 biennium are still expected to total approximately \$1.0 billion. This does not include salary increases and capital outlay, which would raise that amount to over \$1.5 billion.

Regarding the area of public education, the Department of Education's preliminary request is for \$299.6 million for the biennium. This is actually about \$110 million less than the 1996-98 biennium. School enrollment is still growing, but the rate of increase is slowing down as is the increase in special education students. Also, the per-pupil cost actually declined for textbooks, health insurance and instructional support. However, these preliminary numbers do not include some areas in which costs may increase, such as the K-3 reduced class size program, preschool for at-risk four-year-olds, truancy/safe schools, English as a second language programs, reading instruction and remediation, homebound programs, and hospitals, clinics and detention homes instruction.

August 12, 1997, Charlottesville

The Local Government Official's Conference in Charlottesville was the site of the August 12th meeting of the Commission on State and Local Government Responsibility and Taxing Authority. The commission members were briefed by representatives from four localities regarding the current economic conditions in each locality. Assessment practices and procedures around the Commonwealth were explained by a revenue commissioners' representative, and a treasurers' representative discussed the tax collection process.

Local Government Revenue Briefings

The four localities represented during the meeting were the City of Staunton, the Town of Pulaski and the Counties of Henrico and Rockingham. Common themes among the localities' spokespersons included a plea to the commission not to diminish the current taxing authority the localities have, but instead to give them as much flexibility as possible. Also, it was suggested that the state take more financial responsibility for the educational Standards of Quality requirements that it promulgates.

The populations of the four localities range in size from 10,000 in the Town of Pulaski to 245,000 in Henrico County, with general fund budgets of \$5.7 million and \$439 million, respectively. The City of Staunton and the Town of Pulaski are having more difficulty financially than the two counties are. Staunton has even been pursuing reversion to town status be-

cause of future financial obligations, particularly in the education and social service areas. Henrico County, on the other hand, is doing well. Three of the four localities mentioned the fact that their debt service has increased over the past few years, which takes away funds from other needs.

Overall, localities throughout the Commonwealth are concerned about the future. They see a need for more means to raise revenues, not less, and greater contribution from the state in areas in which the localities have little control or input.

Assessment and Collection Procedures

The representative of the Commissioners of the Revenue Association explained the assessment methods for personal property tax and machinery and tools tax. The bottom line regarding assessment methods is that there are varying values, pricing guides and assessment ratios utilized throughout the Commonwealth. Uniformity is lacking, as it was with the BPOL tax prior to its reform. The Commissioners of the Revenue Association will work on recommendations regarding uniformity in this area for presentation to the commission by December.

The collection process is somewhat more uniform in that most localities collect the taxes once a year in December. Only 21 out of 121 localities collect the personal property tax more

often than annually. Legislation was passed during the 1997 Session that permits localities to offer taxpayers the option of paying the tax monthly, bimonthly, quarterly, semiannually or in a lump sum, provided the tax is paid in full by the final due date. The law took effect July 1, so it is too soon to know how many localities will allow the divided payments.

Future Meetings

The commission adopted a tentative schedule for the remainder of the year in order to cover all of the issues that have been brought to its attention. In September, the topic of discussion will be real estate taxes and issues the Farm Bureau has in this regard. The earned income tax credit will be examined in October, followed in November by the proposed federal tax law changes and their effect on Virginia income taxes. Finally, a public hearing or hearings will be held in December to allow interested parties to comment on all of the issues the commission will have examined by that time.

Ms. Eva Tieg, *Chair*

Legislative Services contact: Joan E. Putney



SJR 350

Commission on the Commonwealth's Planning and Budget Process

July 30, 1997, Richmond

The commission was established to examine whether the Commonwealth would benefit from a planning horizon extending beyond the two-year window of its biennial budget. State government is in the process of implementing a performance budgeting system that includes strategic planning and a performance measurement system. Integrating a six-year expenditure forecast with the existing six-year revenue forecasts may provide a tool for effective long-range planning.

The commission is charged with examining (i) the feasibility of providing an integrated six-year budget projection for major budget drivers with each biennial budget, (ii) methods for preparing and presenting such a budget projection, and (iii) mechanisms to evaluate the effect of proposed legislation on the budget and the projections.

Previous JLARC Studies

The most recent analysis of the Commonwealth's budgeting process was conducted by the Joint Legislative Audit and Re-

view Commission (JLARC) through a series of four studies in the early and mid-1990s. The study of revenue forecasting in the executive branch (1991) concluded that while the state's revenue forecasting model could be improved, it was sound overall. Legislative involvement in the revenue forecasting process was modest compared to other states. Forecasts were about as accurate as those of other states and the federal government.

To provide a buffer against revenue forecasting errors, the General Assembly chose to establish a revenue stabilization fund. The proposal for a "rainy day" fund was the subject of the second of the JLARC studies released in 1991. Following ratification by voters in November 1992, a constitutional amendment to establish a revenue stabilization fund became effective January 1, 1993. As of June 30, 1997, \$156.6 million was in the fund. Nearly \$339 million is expected to be in the fund by June 30, 1999. The General Assembly may withdraw money from the rainy day fund only to compensate for one-half of a shortfall in revenue forecasts in any year that the projected shortfall exceeds two percent of income and sales tax revenues from the previous fiscal year.

JLARC's third study, a review of the executive budget process, was completed in November 1991. The report concluded that the process was basically sound and largely reflects and meets the needs of the Commonwealth's executive and legislative institutions and a citizen legislature. In 1995, JLARC completed its study of the concept of benchmarking for the future government operations. After examining best practice

benchmarking, strategic planning, and performance measurement initiatives in the public and private sectors, JLARC concluded that benchmarking efforts went beyond those of the other states studied.

This report was followed by a legislative directive that the Department of Planning and Budget develop guidelines and processes for performance measurement of new programs and performance measures for selected programs on a pilot basis. In 1994, the General Assembly directed the Department of Planning and Budget to develop a plan for statewide strategic planning. The Allen administration has made performance measurement and strategic planning a priority. All executive branch agencies are required to conduct performance measurement and strategic planning for a six-year period. Performance measures continue to evolve with support from the executive and legislative branches.

Experiences with Expenditure Forecasting

The Commonwealth has attempted to conduct long-range expenditure forecasting. The Revenue Resources and Economic Study Commission released several six-year revenue and expenditure projections in the 1970s. This commission cautioned that long-range projections are generally less accurate than short-run forecasts. It also noted that its methodology for expenditure projections has an upward bias by assuming that current programs will continue at baseline levels or be expanded for improvements in scope and quality.

In the same legislation adopted in 1975 that required the executive branch to develop six-year revenue forecasts, the General Assembly required all agencies to provide the legislature and the Governor with estimates of anticipated capital expenditures embracing their activities for six years beyond the current biennium. While the requirement for six-year revenue forecasting still exists, the duty of agencies to prepare six-year expenditure projections was repealed in 1978.

In 1993, the General Assembly amended § 2.1-394 of the Code of Virginia to require agencies to submit to the Governor an estimate of the amount needed for the three following biennia. This provision is still in effect, though copies of the estimates have not been provided to the legislature.

Virginia's Economic and Revenue Estimating Process

Virginia's tax commissioner briefed the members on the state's revenue estimating process. Key elements of the process include the involvement of the Governor's Advisory Board of

Economists in recommending economic forecasts and the Governor's Advisory Council on Revenue Estimates in developing revenue forecasts based on economic scenarios.

The Department of Taxation's success in implementing the revenue forecasting process has been cited in the Commonwealth's consistent ratings as one of the nation's best financially managed states by *Financial World* magazine. Three barriers to the planning process were noted. Accurate forecasting requires staying on the leading edge in technology and forecasting methodologies. Data provided by the Internal Revenue Service for use in forecasting tax collections is one and one-half years old when received. Finally, the current process focuses on the short term, with long-term forecasts being extrapolated from the short-term outlook and assuming moderate-term growth forecasts.

Overview of the Commonwealth's Budget

The Commonwealth's 1996-98 budget consist of \$16.8 billion in general fund revenues and \$18.5 billion in non-general fund revenues. The director of the Senate Finance Committee staff noted that aid to localities and aid to individuals, primarily Medicaid, comprise about two-thirds of the general fund budget. The state payroll, most of which is in six large institutional systems, consumes another quarter of the general fund budget.

Over the past decade, growth in the state budget has been driven largely by four programs and activities: Medicaid; adult and juvenile corrections; public education; and, in the 1990s, debt service. Spending increases required for public education, Medicaid, and corrections are generally regarded as non-discretionary, and multi-year forecasts in these area are either non-existent or have not proven to be accurate. Any effort to look at the Commonwealth's long-range budget prospects will have to focus first on these areas.

Next Meeting

The commission plans to hold its next meeting in late August. At that time, the commission hopes to hear from the Department of Planning and Budget on the budgeting process and strategic planning aid performance measures program and from the state agencies responsible for major budget drivers regarding their long-range expenditure projection efforts.

The Honorable Joseph V. Gartlan, Jr., *Chairman*
Legislative Services contact: Franklin D. Munyan



SR 29**Joint Subcommittee Studying On-Farm Sales of Agricultural Products***July 29, 1997, Richmond*

SR 29 (1997) established a select Senate subcommittee to "consider whether exemptions from agricultural laws should be provided for operators of small farms who wish to sell food or other agricultural products directly from their farms to consumers." Because the Speaker of the House of Delegates requested that a subcommittee of the House Agriculture Committee be appointed to study the same issue, two members of the House Agriculture Committee were appointed to the SR 29 subcommittee to form a joint subcommittee.

The resolution states that small, family-operated farms are in particular need of assistance because economic pressures, agricultural marketing practices, and regulations and other factors have led to a decline in their numbers in the Commonwealth. The resolution directs the subcommittee, in addition to looking at the possibility of providing exemptions to small farmers, to "examine other marketing issues that are of concern to operators of small family farms." The focus of the subcommittee's first meeting was to collect information about the economic and other conditions that affect small farmers in Virginia. The subcommittee heard testimony from the United States Department of Agriculture's state statistician for Virginia, several members of the staff of the Virginia Department of Agriculture and Consumer Services, the president of the National Black Farmers Association, and a farmer who is an advocate of exemptions for on-farm sales of agricultural products.

Statistical Overview

The state statistician had been asked to discuss trends related to small farms with the subcommittee. He explained that while no universally accepted definition of a "small farm" exists, most USDA data are available for three categories of farms: those that produce between \$1,000 and \$10,000 per year in sales, those that produce between \$10,000 and \$100,000 per year in sales, and those that produce over \$100,000 per year in sales. The first category provides a convenient definition for "small farm." Two thirds of Virginia's farms fall within this definition. In addition to operations that raise crops and livestock, common examples of small operations include vineyards, herb farms, organic farms, pick-your-own operations, Christmas tree farms, and nursery/greenhouse operations. Operators of small farms are often retirees or have full- or part-time jobs in addition to operating the farm: 66.4 percent of small farmers have a primary occupation other than farming.

The total number of farms in Virginia was over 75,000 in 1970. Currently, Virginia has approximately 48,000 farms.

Since 1964, small farms have consistently represented a large portion of Virginia's farms. While the total acreage of Virginia's farms has decreased since 1970, the average size of each farm has increased, reaching its peak in 1991. The crops most commonly found on small farms in Virginia are hay and tobacco, while the livestock most prominent is beef cattle.

Department of Agriculture and Consumer Services

Because a large number of the farms in Virginia are small farms, and because large operations do not need the marketing and regulatory support available from the Virginia Department of Agriculture and Consumer Services, most of the department's programs primarily benefit small farmers.

The department provides marketing assistance in a number of ways, including developing promotions for Virginia products; responding to marketing requests from small producers pertaining to sales opportunities, marketing plans, and packaging requirements; soliciting small producers to be listed in brochures published by the department; and seeking and distributing sales leads. The department provides administrative, operational and program support to the Virginia Farmers Market System and Virginia Farmers Market Board and provides guidance and information to locally operated retail farmers markets. Virginia's 17 commodity boards, which assist producers with marketing, education and research, are staffed by department personnel.

The department collects and distributes daily market prices and analyses and other commodity market information to producers and processors. It assists producers in locating and selecting breeding stocks for their herds and flocks, organizing cooperative marketing associations, and implementing new marketing technology. In cooperation with the Virginia Extension Service, the department assists farmers with developing and promoting new products and diversifying their production. Examples include the production of Shiitake mushrooms, Belgian endive, ginseng, elephant garlic, ratites and aquaculture products. The department also provides processing and labeling compliance assistance to small producers of dairy products and meat and poultry.

National Black Farmers Association

The National Black Farmers Association, a Virginia-based group, has been active in trying to save farms from foreclosure and prodding the USDA to settle discrimination complaints filed by black farmers. There are 800 discrimination complaints backlogged at USDA. The association president told the subcommittee that although less than one percent of farmers in the United States are black, 53 percent of the farms on the federal foreclosure inventory are owned by blacks. Between 1982 and 1992, 14 percent of U.S. farms disappeared. In the same period, 43 percent of black-run farms, most of which were small farms, vanished. The association has recently released a pro-

posal to reinvent small family farms. With \$44 million from the USDA and private donations and foundation grants, the program would provide marketing assistance, technical and outreach support, and small grants for operating money to small farmers, especially beginning farmers and minority farmers.

On-Farm Sales

A farmer and advocate of the need to provide regulatory exemptions for on-farm sales of agricultural products told the subcommittee that the real issue is one of consumer choice and entrepreneurial creativity. Some consumers want to buy meat, milk, or other products that have been produced on a small farm or by someone they know. Some consumers prefer food that has been produced using particular environmental protection, worker safety, or animal welfare practices. He criticized

the argument that food sold under regulatory exemptions would not be safe. Operations taking advantage of such an exemption would have to sell safe products to be successful. Meat, butter, and cheese that is not subject to inspection and labeling requirements can be given away but not sold. He questioned whether it is desirable or possible for government to ensure that any food consumed by any person is safe. He also pointed out that exemptions for small businesses are common in law.

The Honorable Emmett W. Hanger, Jr., *Chairman*
Legislative Services contact: Nicole R. Beyer



Joint Subcommittee Studying Agricultural and Forestal Districts

July 29, 1997, Richmond

HJR 468 (1997) would have created a joint subcommittee to "examine how well agricultural and forestal districts are achieving their purpose and determine whether legislative changes are required to increase the effectiveness of districts." Pursuant to directions from the Speaker of the House of Delegates, the resolution was not reported by the committee to which it was referred, but the chairmen of the House Counties, Cities and Towns and Agriculture Committees appointed committee members to undertake the study. The chairmen of the corresponding Senate committees were also requested to appoint members to form a joint subcommittee.

Existing Law

The Agricultural and Forestal Districts Act, enacted in 1977, provides a means by which any locality, upon landowner petition, can create agricultural and forestal districts. In such districts, land is eligible for land use taxation, and the locality and state agencies have a responsibility to protect agricultural and forestal land uses.

Landowners petition for the creation of a district by submitting an application to the local governing body, including maps and information regarding the size and location of each parcel of land proposed to be included in the district. The applicant(s) may propose conditions to the creation of the district, such as a requirement that no parcel in the district may be developed to a more intensive use without prior approval of the governing body. The proposed conditions, if accepted by the governing body,

and any others that the governing body deems appropriate, are incorporated into the ordinance creating the district. No land may be included in a district without the approval of all of its owners.

Notice of the application must be published in a local newspaper, posted at five places within the district and mailed to adjacent property owners by the local planning commission. The application is then reviewed by the agricultural and forestal districts advisory committee, which consists of four landowners engaged in agricultural and forestal production, four other landowners in the locality, a member of the local governing body and the locality's chief property assessment officer or commissioner of revenue. The advisory committee must forward its recommendations to the planning commission within 30 days of receiving the application.

The planning commission then reviews the application and makes its recommendation within 30 days. It must hold a public hearing and publish a notice describing its recommendations and those of the advisory committee. The statute lists the factors that should be considered by the planning commission and advisory committee in considering applications: the agricultural and forestal significance of land within the district and in adjacent areas; the presence of any significant agricultural and forestal lands within or adjacent to the district that are not in agricultural or forestal production; the nature and extent of land uses other than active farming or forestry within and adjacent to the district; local developmental patterns and needs; the comprehensive plan and zoning regulations; and the environmental benefits of retaining the lands in the district for agricultural and forestal uses.

The local governing body must also hold a public hearing on the application, after which it may by ordinance create the district with any modifications or conditions it deems appropriate. The local governing body must act to create the district or reject the application within 180 days of receipt of the applica-

tion. Parcels may be added to an existing district by the same process as that required for the creation of a district.

Districts are reviewed every four to ten years, as specified in the ordinance creating the district. As part of the review, a public meeting with the owners of land within the district must be held by the advisory committee or planning commission. Both make a recommendation as to whether the district should be continued, modified or terminated. The local governing body must hold a public hearing. In continuing the district, the local governing body may adopt conditions or a period before next review that differs from those established when the district was created. The locality may decide not to review the district at the specified time, but in doing so must decide when the next review will occur.

A landowner may withdraw his land from a district by filing written notice with the governing body during the review process. At any other time, a landowner may file a withdrawal request with the governing body. The request is subject to advisory committee and planning commission review, and a public hearing must be held. A denial of the landowner's request to withdraw land may be appealed to circuit court.

Land lying within an agricultural and forestal district that is used in agricultural or forestal production automatically qualifies for land use taxation, regardless of whether a land use taxation ordinance has been adopted by the locality. Land use taxation allows land to be appraised at its value for agricultural use rather than its fair market value. When land is removed from a district or the district is terminated, the owner must pay roll-back taxes for the difference between the tax that would have been paid on the land's fair market value and the special tax amount.

The act requires that the locality and state agencies consider the existence of the district in making decisions. The law also contains specific procedural requirements that apply when the Commonwealth or any political subdivision intends to acquire land or any interest in land within a district, or when a public service corporation intends to acquire an interest in land within a district for public utility facilities or advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures. The agency or public service corporation must file a notice of intent with the local governing body at least 30 days prior to the proposed action. The notice must include a description of the reasons for the proposed action and an evaluation of alternatives that would not require action within the district.

If the local governing body "finds that the proposed action might have an unreasonably adverse effect upon either state or local policy," it must issue an order directing the agency or public service corporation to delay the proposed action for an additional 60 days. The local governing body must then hold a public hearing and report its decision "by the issuance of a final order" as to whether the proposed action "will have an adverse

effect upon such state or local policy and whether such proposed action is necessary to provide service to the public in the most economical and practicable manner." This decision may be appealed to circuit court or, if the public service corporation is regulated by the State Corporation Commission, to the SCC.

Similar to the Agricultural and Forestal Districts Act is the Local Agricultural and Forestal Districts Act, which was enacted in 1982 and applies to four counties: Fairfax, Prince William, Albemarle and Loudoun. Those counties may create districts pursuant to either or both laws. An ordinance creating a district pursuant to the local act must prohibit the development of land in the district to a more intensive use. Agency and public service corporation acquisition of land is not subject to local review under the local act.

Local and State Agency Experiences with Districts

According to the Virginia Department of Agriculture and Consumer Services, 24 counties and one city have agricultural and forestal districts. The number of districts in each locality ranges from one to 36, and total district acreage in each locality ranges from 668 acres to over 86,000 acres. Counties with a large number of districts or total district acreage include Accomack, Fauquier, Albemarle, Loudoun, New Kent, Fairfax and Shenandoah Counties.

Speakers from Culpeper, Loudoun and Fairfax Counties and the Virginia Farm Bureau appeared before the subcommittee to discuss their experiences with districts. Among the speakers were an owner of district land, a member of an agricultural and forestal districts advisory committee, and a local planning staff member. Their comments reflected general support for the program and included several suggestions for improvement, including the following:

- The law could be strengthened if membership in an agricultural and forestal district were required for agriculturally related benefits, such as cost-share grants for the implementation of best management practices.
- There are too many requirements that must be completed within 30-day increments. It would be easier for localities to complete the application review process within 180 days if the time devoted to each individual step in the process could be determined on a case-by-case basis.
- Land use taxation should be available only to land that is in an agricultural and forestal district.
- Owners of district land should have an increased role in the process of reviewing state acquisitions of land in districts.
- Localities should be able to enforce the conditions contained in the district ordinance, either by forcing compliance or terminating the district.
- The law's advertising and publication requirements are more burdensome than necessary.

The Farm Bureau representative stated that, in general, agricultural and forestal districts are achieving the purpose for

which they were designed. The group believes that individual problems experienced in different localities should continue to be addressed at the local level and that the program should continue to be flexible for both localities and farmers.

A representative of VDOT explained the agency's approach to projects that may affect land lying within a district. VDOT determines whether a district will be affected early in the planning process for each project. If it appears that a district will be involved, the locality is notified well before the deadline imposed by the law. VDOT attempts to avoid districts when possible and to minimize the impacts when avoiding the district is not possible. The VDOT representative noted that the review process for agency actions that affect districts can be controversial. As examples he cited the "Smart Road" project in Montgomery County and the widening of Route 3 in Culpeper County.

SJR 300

Joint Subcommittee Studying the Reorganization of the Library of Virginia

July 7, 1997, Richmond

Initially created in 1994 to examine the future and organizational structure of The Library of Virginia, the SJR 300 committee has examined the history, mission, and duties of the library. The committee has looked at the designation and application of funds for the library, including salary levels, and the organization and funding of state libraries and archives in other states. The subcommittee has also received testimony regarding the construction of the new library facility, archives and document preservation needs, and the library's 1995 internal reorganization, initiated in response to directives of the Governor's Blue Ribbon Task Force on Government Reform. That reorganization made several significant changes, including eliminating the Archives and Records Division, placing archival research functions in a Research and Information Services Division, and modifying certain job descriptions and salary bases.

In 1997, the General Assembly continued the work of the committee for an additional year specifically to examine (i) the efficacy and appropriateness of establishing an autonomous state archives agency separate from the library; (ii) the library's internal reorganization plan and the funding and staffing levels for the various divisions within the library and the archives; (iii) the current and projected storage and space needs and preservation efforts, including the status of preservation needs of the library's historic art works; and (iv) such other matters as it deems appropriate. The committee is to submit its findings

Next Meeting

The subcommittee's next meeting is scheduled for September 10 in House Room 1 in the State Capitol at 2:00 p.m. The subcommittee will hear from J. Paxton Marshall, Professor Emeritus of Agricultural Economics at Virginia Tech, who is widely considered to be an expert on agricultural and forestal districts. The subcommittee will also review the results of a survey sent at the request of the chairman to localities with districts.

The Honorable John J. Davies III, *Chairman*
Legislative Services contact: Nicole R. Beyer



and recommendations to the Governor and the 1998 Session of the General Assembly.

New Facility

According to the chairman of the Library Board, the number of visitors to the library in the months since its January 3, 1997, opening has already doubled that of the entire previous year. Noting that the library "holds in trust the history of Virginia and the history of the nation," he cited the need for funding to acquire additional works and to preserve literary materials. The immediate past chairman of the Library Board highlighted the library's reorganization, developed with "extensive input from staff at all levels who suggested changes to better serve the public and to better use our resources." He urged the committee to commit the resources necessary to fulfill the library's mission, "particularly in the areas of preservation and conservation of materials, new collections and advanced technology."

Records Center

The State Librarian described the Records Center construction and classification and pay disparity study. Currently, the library has records storage space at several sites in downtown Richmond, including space in the old library facility. The new Records Center will be located on Charles City Road in eastern Henrico County. The library expects to receive and review bids for this facility and award a contract for its construction in July 1997. The center will provide lower-cost storage for those records that are low-use or inactive, while still making these records available to the public. Four years ago, groundbreaking for this center was expected for a site near the Science Museum; that project was placed on hold and the current site was subsequently selected by the Department of General Services. The project has now been returned to the library, with expected building completion in spring 1999. The site will provide ap-

proximately 130,000 cubic feet of storage to accommodate current and future needs.

Pay Disparity Study

A 1988 study conducted by the Department of Personnel and Training recommended different pay scales for librarians and historians; however, the library is steadily moving toward establishing comparable classifications for comparable work. The librarian has repeatedly requested DPT permission to grant the two-step salary increase necessary to eliminate pay disparities for those 19 employees affected by the 1988 report's findings. A total of \$38,824, currently within the library's budget, is needed to fund this request. The library has also retained Peat Marwick to conduct a compensation and staffing study; the information from this effort should be available by late August. Included in the study's focus will be workloads and salaries for employee recruitment and retention.

SJR 259

Task Force on State and Local Taxation of Electric Utilities

August 5 and 11, 1997, Richmond

Rural electric cooperatives and municipal electric systems presented their views on how restructuring the electricity market to allow retail competition would affect the state and local revenue derived from these providers of electric service. Additionally, the Department of Taxation, relying on data furnished by Virginia's power suppliers, described the potential effect on general fund revenues if the gross receipts tax on the sale of electricity were replaced by alternative taxing mechanisms. Members of the task force also presented their views on an appropriate plan for utility taxation in a restructured market.

Rural Electric Cooperatives

Rural electric cooperatives currently provide electrical service to about 15 percent of Virginia's population. More than 85 percent of the cooperatives' retail electric sales are to residential and small commercial consumers, and a representative for the cooperatives explained that the lower density associated with such a rural service territory results in a higher cost of service than that of investor-owned utilities or municipal utilities.

Rural electric cooperatives, for state tax purposes, are subject to the same tax treatment as investor-owned utilities. However, Section 501 (c) (12) of the Internal Revenue Code provides a federal tax exemption for cooperatives, provided that the cooperative allocates any margins (revenues in excess of costs) back to cooperative consumers. Electric cooperatives do

Other Reports

The joint subcommittee heard detailed reports concerning current materials expenditures, funding for the preservation of the library's collections, increases in staffing levels in public service areas, an immediate need for microfilming of certain collections, and the need for more resources to relieve an increasing backlog of microfilming needs. Finally, representatives of various genealogical and historical organizations urged the joint subcommittee to recommend increased funding to provide greater public access to historical and archival documents.

The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Kathleen G. Harris



pay federal tax on unrelated business income and taxable subsidiary earnings.

Municipal Systems

Municipal electric systems are the smallest segment of the utility industry in Virginia. The 15 municipal electric systems in Virginia serve only five percent of the population, and only two percent of the electric energy sold by municipals is self-generated. State and local government revenue requirements are included in rates charged by municipal electric systems in the same way that taxes are included in investor-owned utility rates. Additionally, municipal electric systems may make contribution payments and payments in lieu of taxes. Such contribution and in lieu payments by municipal electric systems to localities amounted to over \$21 million in 1996.

Department of Taxation

The Department of Taxation, using financial data provided by Virginia's electric suppliers, developed comparative figures focusing on two options for maintaining the approximately \$94 million currently received from gross receipt taxes. These options were (i) replacing the gross receipts tax with a per-kilowatt-hour consumption tax or (ii) replacing the gross receipts tax with a corporate net income tax combined with a per-kilowatt-hour consumption tax.

The first option, at current levels of electricity consumption, would require a tax of 11¢ per hundred kilowatt hours of electricity usage to maintain the current level of revenue derived from the gross receipts tax. The second option, combining a corporate income tax with a consumption tax, would require a consumption tax rate of 7.7¢ per hundred kilowatt hours of electricity usage to maintain revenue neutrality.

These calculations assume (i) continued allowance of a coal tax and neighborhood assistance tax credits, (ii) electricity is tangible property, (iii) all retail sales are subject to a consumption tax, and (iv) that the information provided to the Department of Taxation by Virginia electric utilities was correct and consistent with Virginia law.

The industry profile presented by the Department of Taxation indicates the following levels of overall electricity usage:

Residential	39.4%
Commercial	29.1%
Industrial	20.7%
Public authority and other	10.8%

The percentage of current gross receipts tax paid by these categories is as follows:

Residential	47.6%
Commercial	26.8%
Industrial	13.0%
Public authority and other	12.6%

Attorney General's Office Analysis

A representative from the Division of Consumer Counsel of the Attorney General's office presented comments on behalf of the citizens as consumers and noted that if the gross receipts taxes were apportioned on a straight per-kilowatt-hour basis, the following changes would result: (i) residential consumers would pay 17.25 percent (\$8,854,789) less annually in gross receipts taxes than they paid as part of their bundled rates; (ii) public authority and other consumers would pay 14.2 percent less (\$1,920,499); (iii) industrial customers would pay 58.7 percent more (\$8,246,417); and (iv) commercial customers would pay approximately 8.77 percent more (\$2,528,868).

The representative from the Attorney General's office further explained that the current customer classifications may be an inaccurate means of providing an equitable method for tax burdens, particularly because each electric utility has its own classifications of customers, which may have different intra- and extra-class characteristics from the classifications of other utilities.

All members of the task force were given the opportunity to respond to the Department of Taxation presentation and to recommend or present alternatives to the two options outlined by the department.

Comments on Taxation Options

American Electric Power-Virginia (AEP) and ALERT, a coalition representing residential, industrial and commercial

consumers, recognized the shift of tax burden resulting from a consumption tax based on kilowatt hours and recommended establishing alternative tax structures. AEP recommended imposing an "ad valorem" tax, possibly in combination with a corporate income tax. Such a scheme, according to AEP, would result in a minimal change in tax basis, no change in tax rate, no appreciable changes in tax responsibility between customer classes or between electric providers in the state, and achieves a "level playing field" for out-of-state purchases.

ALERT recommended a combination of corporate income tax and a sales and use tax in order to provide revenue neutrality to the state and avoid cost shifting between classes of consumers. ALERT also suggested that any change to the tax structure include "true up" mechanisms whereby adjustments can be made to the tax structure based on the levels of sales or consumption. ALERT emphasized that it did not want the loss of tax revenue to get in the way of the enormous benefits that the citizens of Virginia can enjoy as a result of retail competition in the electricity market.

The Virginia Municipal League and the Municipal Electric Power Association of Virginia (MEPAV) shared concerns over any proposed taxing schemes subjecting local governments or municipal utilities to state taxes. MEPAV proposed that any recommended alternative tax plan be applied universally and in such a manner as to eliminate any advantages for out-of-state suppliers selling directly to Virginia retail customers or municipal utilities.

The rural electric cooperatives, independent power producers, and Virginia Citizens Consumer Council all endorsed a consumption tax based on usage (kilowatt hours) in combination with a corporate income tax. The electric cooperatives stressed that any tax restructuring plan should recognize the federal tax exempt status of cooperatives.

Virginia Power, responsible for 75 percent of the taxes paid by electricity providers in the Commonwealth, declined to recommend or endorse any specific tax policy at this time. A representative from Virginia Power stated that the utility prefers to focus on stranded cost recovery and eliminating disparity between Virginia and out-of-state electric providers.

The task force will brief the joint subcommittee at the latter's September 25 meeting on its findings and recommendations.

The Honorable Jackson E. Reasor, *Chairman*
Legislative Services contact: Rob Omberg



SJR 259

Joint Subcommittee Studying Electric Utility Restructuring

August 12, 1997, Richmond

The joint subcommittee convened its third meeting in 1997 to receive updates on the positions of individuals and groups with a stake in electric utility restructuring. The joint subcommittee also received an update on the activities of its task force studying the impact of retail restructuring on state and local taxation of public utilities (see preceding article).

The joint subcommittee's July meetings provided a workshop on several key restructuring issues: (i) current Congressional activity, (ii) legislative and regulatory activity in other states, (iii) transmission system reliability, and (iv) current Virginia State Corporation Commission (SCC) activities anticipating the SCC's November report outlining a potential restructuring plan for Virginia's electricity market.

Consumer, Low-Income, and Senior Citizen Groups

Representatives of consumer, low-income, and senior citizen groups expressed reservations about retail competition. A Virginia Council Against Poverty (VCAP) spokesperson noted that the benefits of restructuring to any particular group or individual depend on their situation in terms of geography, consumer protection, economic power and access to understandable information. VCAP, the American Association of Retired Persons (AARP), and the Virginia Poverty Law Center representatives told the joint subcommittee that low-income residential consumers and senior citizens are most at risk in any restructuring scenario because (i) unlike business and industrial customers, they lack the market power to negotiate cheaper rates and (ii) they are unlikely sales prospects for aggressive power marketers offering cheap electricity deals.

These consumer groups advocated that any restructuring legislation adopted in Virginia include (i) a universal electricity service policy, including a guaranty of affordability, (ii) education and outreach programs, targeting low-income individuals, and (iii) continued support—through billing surcharges, if necessary—for low-income weatherization and fuel assistance programs. VMH, Inc., a not-for-profit organization serving as a low-income home weatherization and fuel assistance contractor, urged the joint subcommittee to consider the social and economic benefits that energy efficiency and demand-side management programs have furnished. Utility restructuring should not jeopardize these programs, it said.

Residential electricity consumers, unable to shop large electrical loads like business and industrial customers, simply lack

market power. Thus, according to Virginia Citizens Consumer Council (VCCC) and AARP representatives, these consumers will be the hardest to benefit in a competitive market unless long-term electricity costs are reduced for this group. The VCCC urged the joint subcommittee to consider carefully restructuring's implications for this group, and to ensure that any restructuring plan (i) caps utilities' recovery of "stranded costs" (the difference between utility assets' book values and market values) at 50 percent, (ii) requires licensing and bonding of all electricity sellers in Virginia, and (iii) removes utilities' current exemption (as a regulated industry) from the provisions of the Virginia Consumer Protection Act. Additionally, the VCCC recommended statutory provisions protecting customer privacy and imposing time-of-day restrictions on electricity telemarketing.

Organized Labor

Workers, management and regulators in the current electric utility industry have developed an exemplary safety record, according to the International Brotherhood of Electrical Workers' (IBEW) System Council U-1, a labor organization representing 3,500 electrical workers in the Virginia Power system. An IBEW representative told the joint subcommittee that electric power companies are cutting costs, resulting in systems so overstretched they may not be able to operate efficiently in times of peak demand or during storms. Virginia Power, for example, has reduced its workforce by one-third since 1989 in preparation for anticipated retail competition.

The IBEW believes that a sudden shift to mandated retail competition would induce further workforce streamlining, posing a risk to system integrity and public safety. The labor organization is not against a more competitive electricity market but strenuously opposes mandated retail competition. Additionally, the IBEW objects to federal legislation on this issue, believing that state and local policymakers are best equipped to address proposed changes in the sale of electricity.

Environmental Concerns

Despite its complexity, electric utility restructuring done correctly can produce significant consumer and environmental benefits, the Southern Environmental Law Center told the joint subcommittee. The electric power industry, said a center representative, is the leading source of U.S. air pollution. Restructuring, if done correctly, could lead to the retirement of older, more polluting power plants and their replacement with new plants complying with stricter federal emissions standards than those imposed on the older plants. The less rigorous emissions standards imposed on older plants (making them cheaper to operate) is viewed by the center as a significant barrier to environmentally sound competition. The center recommended that the SCC and the General Assembly support federal action correcting competitive and environmental problems caused by these disparate emissions standards.

The center also recommended that any Virginia restructuring plan require generation providers—as a condition of participation in the Virginia market—to furnish emissions-related information in their marketing materials, thus enabling consumers to choose clean energy providers. In a related vein, the center reminded the joint subcommittee that stranded cost recovery strategies affect the environment as well. These costs should be limited to past investments and should not include costs to keep plants operating on an ongoing basis. Otherwise, such recovery could result in a subsidy of uneconomic plants. Finally, the center advocated continued support for investments promoting energy efficiency and renewable energy. Any competitive model should include a public benefits trust, funded by a small surcharge imposed on all electricity users to fund these investments.

Energy Providers and Producers

Independent Power Producers and Power Marketers

Virginia Independent Power Producers, Inc. (VIPP) and ENRON, a nationwide power marketing concern, propose that the transition to retail competition begin on the state level as quickly as possible. A VIPP representative said that states adopting retail competition now may possibly benefit from some grandfathering of existing state plans in future federal legislation. Moreover, he said, VIPP's information from Congress suggests that the House Commerce Committee—where significant federal restructuring legislation is being reviewed—may be preparing to mark up and report to the House floor a restructuring bill within the next year.

An ENRON spokesman advocated a speedy transition to competition and also urged unbundling all competitive services—not just generation—which would include: electric billing, metering, energy audits, conservation and demand-side management investments, customer services and every other service provided today as part of utilities' bundled service. Additionally, he stated that vertically integrated utilities should be required to conduct all unregulated business through separate companies to avert cross-subsidies from transmission and distribution services to affiliated entities in competitive services businesses.

Investor Owned Utilities and Electric Cooperatives

Allegheny Power. On record for retail customer choice and federal legislation making it available nationwide, Allegheny Power Systems advised the joint subcommittee that it supports a two-phase transition to retail competition. In the first phase, an Allegheny representative said, utilities would unbundle retail electric rates into separate rates for generation, transmission and distribution functions and file them with the SCC in preparation for Phase II. During the second phase of the transition, unbundled retail rates would be put into effect and a non-bypassable competitive transition charge (CTC) would be

paid to the local distribution company by all consumers who exercise choice.

Under Allegheny's plan, generation would be fully deregulated; transmission would be regulated by the Federal Energy Regulatory Commission (FERC); distribution regulated by the states would be driven by performance-based measures; and remaining stranded costs would be recoverable by a non-bypassable CTC over a longer, specified period, or as incurred. Allegheny emphasized that a competitive Virginia market must ensure that (i) all generators must be subject to the same tax treatment; (ii) existing public service programs are evaluated, and (iii) appropriate consumer protections are developed.

Electric Cooperatives. The electric cooperatives told this joint subcommittee in 1996 that they favored a measured, deliberate course on the road to restructuring. The Virginia, Maryland, and Delaware Association of Electric Cooperatives reiterated their support for this approach, while outlining the components of a restructuring plan that would satisfy many of their concerns. Serving over 750,000 Virginians, the cooperatives produce approximately 50 percent of their power and purchase the remainder—principally from investor-owned utilities.

The coops' recent investment (through the Old Dominion Electric Cooperative, or ODEC) in a \$1.2 billion, state-of-the-art coal-fired plant near Clover, Virginia, requires them to substantially reduce long-term debt and reduce costs in preparation for any competitive retail market. Consequently, they favor generation retail competition no earlier than 2003 for 20 percent of customers and transition to 100 percent by 2005. Moreover, the association proposes that all generators participate in a "supplier of last resort" pool. An additional key proviso: distribution territorial boundaries must be maintained and there must be no duplication of facilities and no bypass of a distribution system.

The coop association asserted that the unique structure of coops must be recognized and maintained. These unique features include their capacity to act as power aggregators for their customers. Finally, the association strongly recommended that (i) reliability standards be set by the SCC to ensure that reliability in less populated areas is not significantly different than that in urban and suburban regions and (ii) a pilot be conducted to test any model adopted in Virginia and then for the sole purpose of testing technical aspects and not to demonstrate any level of savings.

Municipal Power Suppliers

According to the American Public Power Association (APPA), about 35 million Americans receive their electricity from more than 2,000 community-owned electric utilities. Here in Virginia, municipals are the smallest segment of the utility industry, serving only five percent of the population. There are 15 municipal systems in Virginia with collective ownership of 104 megawatts of peaking generation. Only about two percent of the electricity sold by municipals is self-generated. An APPA

representative told the joint subcommittee that its vision for any potential restructuring would include (i) the absence of any federal mandate and (ii) the easing of current federal tax law restrictions on the use of tax-exempt bond issue proceeds for private use. Among reasons offered for the latter, the APPA spokesman stated that these restrictions hinder the goal of an open transmission system by limiting the economic use of transmission lines financed with tax-exempt bonds.

Natural Gas Producers

The Virginia Oil and Gas Association (VOGA), representing natural gas producers and distributors throughout the Commonwealth, reminded the joint subcommittee that high-efficiency gas-fired power plants have helped pave the way to a restructured market. As such, the natural gas industry is an important stakeholder in the restructuring debate. A VOGA representative presented the components of a VOGA-endorsed restructuring model for the joint subcommittee's consideration. Among its features were a model for stranded cost recovery that was characterized as "competitively neutral." Its provisions would implement a surcharge to collect the difference between a regulated revenue requirement established by the SCC and revenues produced by market-based prices. Other features included provisions for consumer protection, quality of service, customer information, billing and universal access (a responsibility of the local electric distribution company under the proposal).

Business and Industrial Customers

The Virginia Committee for Fair Utility Rates, an organization representing Virginia Power's largest commercial customers, was represented before the joint subcommittee, emphasizing its view that there is a consensus among a significant number of stakeholders in the restructuring debate that retail customers in Virginia should be permitted to choose their generation supplier. The committee proposes that retail competition should start within one year, in a transition period ranging from two to seven years. In their view, 20 percent of all customer

classes should have choice in year one, 50 percent in year two, and 100 percent by year three. It views the current transmission system as sufficiently reliable to handle increasing numbers of wholesale electricity transactions and expressed confidence that requisite system improvements will be made as needed to accommodate a retail market.

The committee recommended that (i) the details of transition, (ii) establishment of necessary supporting systems, (iii) recovery of stranded costs, and (iv) supervision of the development of competition during the transition and before generation is completely deregulated be left to the SCC. However, the committee is strenuously opposed to utilities' 100 percent recovery of stranded costs, criticizing Virginia Power's claim, for example, that the uneconomic portions of its current above-market contracts for purchased power with nonutility generators should be fully reimbursed through stranded cost recovery. The committee believes that utilities' shareholders should share in the costs of what the committee characterized as "discretionary management decisions."

Future Activities

The joint subcommittee will convene its next meeting on September 25 in Richmond. The meeting will be focused on restructuring's potential impact on state and local taxation—state gross receipts taxes and local property taxes in particular. The joint subcommittee will conclude its update briefing activities with presentations from several key stakeholders, including Virginia Power, AEP Virginia, the ALERT business and industrial customer coalition, Washington Gas, and the Municipal Electric Association of Virginia.

The Honorable Jackson E. Reasor, Jr., *Chairman*
Legislative Services contact: Arlen K. Bolstad



Virginia Small Business Commission

July 31, 1997, Richmond

The Virginia Small Business Commission convened its first meeting in 1997 to receive reports on (i) Virginia's financial and assistance programs for small business, (ii) capital access and financing for rural small business enterprises, and (iii) small business and health care legislation. The 14-member commission was established in 1995 and serves Virginia's small business community by evaluating the impact of existing statutes

and proposed legislation on small businesses, as well as assessing the Commonwealth's small business assistance programs and examining ways to enhance their effectiveness.

Small Business and Economic Development

State-promoted economic development programs and their potential for generating small business opportunities is an issue of continuing interest to the commission. The Secretary of Commerce and Trade told the commission that small business has not been left out of the Allen Administration's economic development programs over the past three years—programs that have brought in companies like White Oak Semiconductor,

Gateway 2000, and Frito-Lay, along with 211,000 net new jobs and \$11.5 billion in investment. The secretary said that half of the new companies coming to Virginia in conjunction with economic development promotions are small businesses with fewer than 75 employees.

Small Business Development Centers

The Small Business Development Center (SBDC) program provides management assistance and technical advice to small- to medium-sized start-ups and existing businesses. The centers provide training in a variety of subjects, including how to start a business, managing cash flow, raising capital, and developing a business plan. This statewide program, funded through federal, state and private financing, operates out of 26 regional offices throughout the Commonwealth. Virtually all SBDC clients employ fewer than 100 employees.

The SBDC's director advised the commission that professionalism requirements have been recently instituted, including requiring all regional center directors to have master's degrees. The director also reported that in 1997 the program counseled over 10,000 businesses and helped create or save about 3,000 jobs. Commission members expressed an interest in following the SBDC's development and conducting a small business needs assessment survey.

Small Business Financing Authority

Since its creation in 1994, the Small Business Financing Authority (SBFA) has offered a variety of loan and guaranty programs through public-private partnerships to provide financing to Virginia businesses for growth and expansion. The authority offers industrial development bonds, a loan guaranty program, export financing assistance and similar programs including defense conversion and child day care financing programs. The authority reported to the commission that in fiscal year 1997, it helped arrange more than \$64 million in business loans to 93 businesses in the Commonwealth, thereby creating or saving 2,674 jobs. The 1997 General Assembly placed two new programs under the authority's umbrella: the Small Business Growth Fund and the Export Loan Guaranty Fund.

The Small Business Growth Fund (also known as the Virginia Capital Access Fund) provides loan loss reserve funds for participating banks through matching VSBFA funds. The loan loss reserve fund, with contributions by borrower and lender, together with matching amounts from the VSBFA, is designed to promote private market lending to small business loan customers who may be otherwise ineligible for conventional business loan financing. The 1997 General Assembly furnished a \$350,000 appropriation, which is expected to help leverage approximately \$10 million in new loans.

The Export Loan Guaranty Fund is designed to increase access to capital for small businesses targeting international

trade opportunities. The fund authorizes VSBFA to guarantee up to 90 percent of the principal amount of commercial loans (up to a maximum of \$1 million) made by a lender for the purpose of facilitating the sale of goods, products or services outside the United States by persons, firms or corporations that utilize a Virginia air-, land- or seaport to ship such goods, products or services. The 1997 General Assembly provided \$750,000 in funding for the fund in its inaugural year.

Child Day Care Financing Program

The Child Day Care Financing Program—administered by the SBFA—provides loans of up to \$25,000 for improvements in child day care programs and facilities. The program provides direct loans to finance quality enhancements for child care programs or to meet or maintain child care standards, including health, safety and fire codes. The program exists because bank financing for child care centers and providers is reportedly difficult to obtain since (i) prospective borrowers usually have little collateral and (ii) day care businesses operate on thin profit margins. According to a program representative, the program has provided over \$ 2.1 million in financing, creating 2,500 new child care spaces and over 135 new employment positions, since it was launched in 1994.

The program attracted the commission's attention in 1996 when funding for the program was not requested in Virginia's 1996-1998 Child Care and Development federal block grant application (as submitted by the Council on Child Day Care and Early Development Programs). Since the program historically relied entirely on these block grant funds for all of its operating funds, by the summer of 1996 it had no means of underwriting new loans. The Department of Social Services had responsibility for administering this block grant program in 1996 after the council was eliminated.

The Commissioner of Social Services ultimately advised the commission that it would provide departmental funding for the \$170,000 in outstanding loan requests submitted in 1996. Additionally, a 1997 General Assembly budget amendment placed a \$750,000 Child Day Care Financing Program obligation in the departmental budget, without special appropriation. The SBFA's representative told the commission that the department and the SBFA are making arrangements for transferring the funding into the program. However, the commission was advised that no funding for the Child Day Care Financing Program was requested as part of the department's current federal block grant application. A departmental representative told the commission that the Commonwealth's current inventory of child care providers and spaces is sufficient to meet existing need and that re-targeting priorities in the block grant is appropriate—particularly in light of welfare reform legislation requiring work by public assistance recipients, thereby creating a demand for child care subsidies. Commission members expressed their hope that additional departmental funding would be provided to the program in 1998.

Capital Access Needs of Rural Small Businesses

Whether access to credit in rural areas has become a problem and a serious barrier to economic development is a subject under study by the Rural Economic Analysis Program (REAP) sponsored by Virginia Tech. The commission examined this issue in 1996 with the assistance of REAP's coordinator. The commission made no recommendations in 1996 but did receive information about the pilot program after which the Small Business Growth Fund (discussed above) was modeled.

The REAP coordinator returned to furnish the commission an update on the REAP study, designed to measure the existence and extent of a possible rural credit gap. The study, he reminded commission members, was concentrated on Brunswick, Halifax, Grayson, Mecklenburg and Patrick Counties. Approximately 2,000 surveys were sent to a random sample of farm and nonfarm businesses located within the survey area. The survey posed questions about credit availability, access and denial. The REAP study concluded that rural financial market conditions in Virginia do not reveal widespread inadequacies and that there has been no massive market failure. Cash flow and collateral requirements are the most common reasons for loan denials in this small business loan market.

The REAP report concluded, however, that there were certain inadequacies in this market, chiefly loan customer ignorance of key information, such as (i) available governmental loan programs or business assistance and (ii) interest rates or loan conditions in the local market. The report also noted that the average size of loans sought by the survey respondents was very small (ranging from \$5,000 to \$20,000) and that lenders are frequently uninterested in loans this small because loan preparation, investigation and processing costs may make them uneconomical. Another important conclusion was REAP's assessment of governmental involvement in this market. It noted, for example, that only a small percentage of rural businesses reported using state programs such as the Small Business Development Centers. REAP's coordinator agreed with commission members that these programs need greater visibility and that their successful marketing could lead to increased and helpful utilization in these rural markets. He also noted that private lenders should be encouraged to facilitate borrower use of these programs as well.

Small-Business-Related Health Care Issues

The commission follows health care reform activities as they affect Virginia's small business community. The Joint Com-

mission on Health Care staff briefed the commission on (i) the federal Health Insurance Portability and Accountability Act (HIPAA), (ii) the status of small group insurance reforms, and (iii) options currently being considered by the joint commission. A significant development was the 1997 General Assembly's enactment of legislation implementing HIPAA in Virginia. HIPAA (popularly known as the Kennedy-Kassebaum bill) focused on such issues as guaranteed health insurance renewability, preexisting condition waiting periods, and providing credits for waiting periods served in previous coverage. Many of HIPAA's provisions had been previously enacted in Virginia as part of insurance reform legislation adopted in the past several years.

Commission members learned, however, that Virginia's "bare bones" essential and standard health care plans have had minimal impact. Only 14 of 70 carriers have sold them, and the plans cover fewer than 100 employers with approximately 500 employees in all. It seems likely that many employers are unaware of the plans; it is apparent that insurers are not expending marketing resources on them. However, the joint commission reported that it is reviewing options for fine tuning these plans, including expediting their review and updating and strengthening marketing requirements to make employers more aware of them.

Other Matters

The commission received a brief presentation from the president of the Little Creek East Business Association (Norfolk), who described a variety of projects (including road and signage improvements) undertaken by the association in its efforts to upgrade and maintain a business district along a four-mile roadway linking the City of Norfolk to a U.S. Navy amphibious base. He noted that many of the programs coordinated by the Department of Business Assistance and discussed in the course of the commission's meeting were unfamiliar to him and probably to other members of his business association and suggested better marketing and publicity.

The commission will convene its next meeting in Richmond on October 1.

The Honorable Stanley C. Walker, *Chairman*
Legislative Services contact: Arlen K. Bolstad



Filing Deadlines

By action of the 1995 and 1997 Sessions of the General Assembly, three categories of bills have been added to the list of legislation that must be filed by the first day of the General Assembly Session.

Local Fiscal Impact (§ 30-19.03:1; Chapter 743, 1995 Acts of Assembly)

Any bill that mandates an additional expenditure by any county, city, or town must be filed on or before the first day of the session. A mandate has the effect of (i) requiring the performance of a new or expanded service or maintaining an existing service at a specific level, (ii) assuming administrative costs in support of state-related programs, or (iii) furnishing capital facilities for state-related activities. There is an exemption for bills requested by the Governor or "filed in accordance with the rules of the General Assembly."

Prison Impact (§ 30-19.1:6; Chapter 462, 1995 Acts of Assembly)

All bills requiring a statement of fiscal impact on the operating costs of state correctional facilities must be filed on or before the first day of the session. A fiscal impact statement is required

for any bill that would result in a net increase in periods of imprisonment in state correctional facilities, including those bills that (i) add new crimes for which imprisonment is authorized, (ii) increase the periods of imprisonment for existing crimes, (iii) impose minimum or mandatory terms of imprisonment, or (iv) modify the law governing the release of prisoners in such a way that the time served in prison will increase.

Virginia Retirement System (Chapter 610, 1997 Acts of Assembly)

Any bill that amends, repeals, or modifies any provision of the Virginia Retirement System, the State Police Officers' Retirement System, or the Judicial Retirement System must be filed on or before the first day of the session. The Board of Trustees of the Virginia Retirement System shall submit to the Clerks' offices, the Commission of Local Government, the House Committee on Appropriations, and the Senate Committee on Finance a statement of (i) the financial impact of the proposed bill on the general fund and on the local governments that have opted to be part of VRS and (ii) the policy implications of the bill on the various systems administered by the Board of Trustees.

Other categories of legislation that must be filed by the first day include local charter and optional forms bills, personal relief (claims) bills, sales tax exemption bills, and property tax exemption bills.

The Legislative Record summarizes the activities of Virginia legislative study commissions and joint subcommittees. Copyright © 1997 Division of Legislative Services. Published in Richmond, Virginia, by the Division of Legislative Services, an agency of the General Assembly of Virginia. *The Legislative Record* is also published in *The Virginia Register of Regulations*, available from the Virginia Code Commission, 910 Capitol Street, 2nd Floor, Richmond, Virginia 23219. Notices of upcoming meetings of all legislative study commissions and joint subcommittees appear in the Calendar of Events in *The Virginia Register of Regulations*. The Legislative Record is available on-line at <http://legis.state.va.us/dls/dls.htm>



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SCHEDULES FOR COMPREHENSIVE REVIEW OF REGULATIONS

Governor George Allen issued and made effective Executive Order Number Fifteen (94) on June 21, 1994. This Executive Order was published in *The Virginia Register of Regulations* on July 11, 1994 (10:21 VA.R. 5457-5461 July 11, 1994). The Executive Order directs state agencies to conduct a comprehensive review of all existing regulations to be completed by January 1, 1997, and requires a schedule for the review of regulations to be developed by the agency and published in *The Virginia Register of Regulations*. This section of the *Virginia Register* has been reserved for the publication of agencies' review schedules. Agencies will receive public comment on the following regulations listed for review.

DEPARTMENT OF SOCIAL SERVICES

Pursuant to Executive Order Number Fifteen (94), the Department of Social Services is currently reviewing the below listed regulation to determine if it should be terminated, amended, or retained in its current form. The review will be guided by the principles listed in Executive Order Number Fifteen (94) and in the department's Plan for Review of Existing Agency Regulations.

The department seeks public comment regarding the regulation's interference in private enterprise and life, essential need of the regulation, less burdensome and intrusive alternatives to the regulation, specific and measurable goals that the regulation is intended to achieve, and whether the regulation is clearly written and easily understandable.

REGULATION

22 VAC 40-30-10. Food Stamp Program - Resource Exclusion.

Written comments may be submitted until October 15, 1997, to Tom Steinhauser, Assistant Director, Division of Temporary Assistance Programs, Department of Social Services, 730 E. Broad Street, Richmond, VA 23219-1849, telephone (804) 692-1703 or FAX (804) 692-1704.

GENERAL NOTICES/ERRATA

Symbol Key

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

† Title V Operating Permit Applications

Virginia's Regulations for the Control and Abatement of Air Pollution, 9 VAC 5 Chapter 80, require the Department of Environmental Quality to determine a schedule of due dates for Title V operating permit applications. This schedule must be set so that all Title V applications are due to the department within one year after sources of air pollution become subject to the regulation (see 9 VAC 5-80-80 C 1). Virginia's Title V sources became subject to 9 VAC 5 Chapter 80, the Title V rule, as of July 10, 1997, which was the effective date of approval of Virginia's program by the U.S. Environmental Protection Agency.

In the weeks following that approval of Virginia's program, the Department of Environmental Quality put its list of Title V facilities into final form, and published it on the DEQ home page on the Internet. The full list contains registration numbers, names, addresses, contact persons, phone numbers, emission inventory year used to determine whether the source is on the list, and "batch numbers" for all Title V sources that have been identified in the state.

At this time the department is publishing the source list in the *Virginia Register*. This is done in the interest of reminding sources whose personnel read the Register that they may expect to begin preparing Title V applications for submission.

Finally, the department reminds potential and already-identified Title V sources of the due dates, as follows:

- Batch 1 sources must apply by January 12, 1998;
- Batch 2 sources must apply by March 10, 1998; and
- Batch 3 sources must apply by May 11, 1998.

Questions on this matter may be addressed to Charles Ellis, Department of Environmental Quality, telephone (804) 698-4016.

07/14/97

VIRGINIA TITLE V FACILITIES

DEQ ID	AIRS ID	NAME	MAILING ADDRESS	CITY	STATE	ZIPCODE	CONTACT PERSON	TELEPHONE	INV. YEAR	BATCH#
10050	511730001	MARION COMPOSITES/TECH.PDTS.GRP.INC	150 JOHNSON ROAD	MARION	VA	24354	CLIFF STANLEY	(540)783-3121	96	3
10060	511910060	REYNOLDS METALS CO	750 OLD ABINGDON HWY	BRISTOL	VA	24201	KIM COE	(540)466-2261	96	1
10159	510350061	VAUGHAN FURNITURE CO INC	PO BOX 1489	GALAX	VA	24333	EDDIE ROGERS	(540)236-6111	96	3
10200	510270004	JEWELL COKE COMPANY, L.P.	P.O. BOX 70	VANSANT	VA	24556	RICK WADDELL	(540)935-8810	96	1
10207	511730036	VA HOUSE FURN CORP	BOX 138	ATKINS	VA	24311	JAMES E. BROWN	(540)783-7217	96	3
10211	511910018	MORRISON MOLDED FIBER GLASS CO	PO BOX 580	BRISTOL	VA	242030580	JOHN E. BARKER	(540)669-1181	96	2
10235	511670006	CLINCHFIELD COAL CO	PO BOX 7	DANTE	VA	24237	MATTHEW CARTLIER	(540)495-4258	96	3
10236	511670003	AMERICAN ELECTRIC POWER	ONE RIVERSIDE PLAZA	COLUMBUS	OH	432152373	MICHAEL ROBIDA	() - 0	96	1
10244	511730011	GENERAL SHALE PRODUCTS CORP.	P.O. BOX 3547	JOHNSON CITY	TN	37602	DAVE MCNEES	(423)282-4661	96	1
10284	511730002	MARLEY MOULDINGS INC	PO BOX 610	MARION	VA	24354	HAROLD S. DEBORD	(540)783-8161	96	1
10286	511910122	U.S. GYPSUM CO. INC.	RT. 1, BOX 7	SALTVILLE	VA	24370	WILLIAM A. CASTREY	(540)496-7733	96	3
10308	510350003	VAUGHAN-BASSETT FURNITURE CO.	P.O. BOX 1549	GALAX	VA	24333	WILLIAM D. GLOVER	(540)236-6161	96	2
10332	510350036	WEBB FURNITURE ENTERPRISES	PO BOX 1277	GALAX	VA	24333	BARRY BRANSCOME	(540)236-2984	96	3
10352	510270009	ISLAND CREEK COAL CO-MINE #3	PO DRAWER L	OAKWOOD	VA	24631	GERALD F. RAMSEY	(540)498-8351	96	2
10424	511730035	VA HOUSE FURN CORP	BOX 138	ATKINS	VA	24311	JAMES E. BROWN	(540)783-7217	96	3
10443	510350018	VAUGHAN FURNITURE CO INC	PO BOX 1489	GALAX	VA	24333	NICK MOODY	(540)236-6111	96	3
10509	511730067	AMERICAN OF MARTINSVILLE PLT #12	355 INDUSTRIAL PARK ROAD	CHILLHOWIE	VA	24319	VICKIE WORLEY	(540)646-8901	96	3
10538	510770025	WEBB FURNITURE ENTERPRISES #2	PO BOX 1277	GALAX	VA	24333	BARRY BRANSCOME	(540)236-2984	96	3
10689	510270047	ISLAND CREEK COAL/VP #8/DESKINS PLT	PO DRAWER L	OAKWOOD	VA	24631	GERALD F. RAMSEY	(540)498-8351	96	1
10700	511730065	MARION COMPOSITES/TECH.PDTS.GRP.INC.	150 JOHNSTON ROAD	MARION	VA	24354	CLIFF STANLEY	(540)783-3121	96	3
10704	510270046	ISLAND CREEK COAL/VP #8/GARDEN PLT	PO DRAWER L	OAKWOOD	VA	24631	GERALD RAMSEY	(540)498-8351	96	3
0813	511730085	PCS PHOSPHATE COMPANY INC	PO BOX 30321	RALEIGH	NC	27612	DALE JENSEN	(540)496-4741	96	2
0814	510210008	ASEA BROWN BOVERI POWER TRD	PO BOX 38	BLAND	VA	24315	E. WAYNE LAMBERT	(540)688-3325	96	2
0830	511730071	MERRILLAT IND INC	PO BOX 259	ATKINS	VA	24311	MARTHA WEST	(540)783-3153	96	2
0945	510270081	CONSOLIDATION COAL CO	PO DRAWER L	OAKWOOD	VA	24631	GERALD F. RAMSEY	(540)498-8351	96	3
0979	511910128	E TENNESSEE NATURAL GAS CO -STATION 3311	PO BOX 2511	HOUSTON	TX	772522511	TED WURFEL	(713)757-5796	96	3

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11008	510350058	VAUGHAN FURNITURE CO INC	PO BOX 1489	GALAX	VA	24333	NATHAN SMITH	(540)236-6111	96	3
11015	510350060	CONSOLIDATED GLASS & MIRROR	305 LINEBERRY ROAD	GALAX	VA	24333	STEVE BECKWITH	(540)236-5196	96	1
11019	511970066	KINGSTON-WARREN CORP	1150 SOUTH THIRD STREET	WYTHEVILLE	VA	24382	JOHN DOMIN	(540)228-6150	96	1
11021	511690046	LA PACIFIC CORP	ROUTE 8 BOX 8263	HAYWARD	WI	54843	SUSAN SOMERS	(715)634-3454	96	1
11030	511730086	U.S. GYPSUM CO. INC.	RT. 1, BOX 7	SALTVILLE	VA	24370	WILLIAM A. CASTREY	(540)496-7733	96	1
11046	510510034	EAST TENN NAT. GAS CO. - STATION 3401	P.O. BOX 2511	HOUSTON	TX	772522511	TED WURFEL	(713)757-5796	96	2
11082	511950150	WORLD OF MARBLE	P.O. BOX 1479	COEBURN	VA	24230	DANNY ATWOOD	(540)395-3963	96	2
11085	510350067	GUARDIAN INDUSTRIES	2300 HARMAN ROAD	AUBURN HILLS.	MI	483261714	STEVE BECKWITH	(540)236-5196	96	2
11096	510270099	COLUMBIA GAS TRANSMISSION CORPORATION	P.O. BOX 1273	CHARLESTON	WV	253251273	P. M. HOFFMAN	(304)357-2548	96	3
11103	511850116	WOODTECH INC	ROUTE 102	BLUEFIELD	VA	24605	MAGGIE ASBURY	(540)326-1100	96	1
20067	511650013	VICTOR TUBE CORPORATION	810 N MAIN STREET	HARRISONBURG	VA	22801	VEENIS, JAY	(540)434-4411	96	3
20077	511630004	MUNDET-HERMITITE INC	P O BOX 949	BUENA VISTA	VA	24416	FRANCIS, GRETCHEN	(540)261-7435	96	3
20092	510690011	VALLEY PROTEINS INC	P.O. BOX 3588	WINCHESTER	VA	22604	SMITH, MICHAEL	(540)877-2590	96	3
20093	511710001	AILEEN INC	PO BOX 248	EDINBURG	VA	22824	LITTEN, DONALD R	(540)984-4181	96	3
20123	511610026	YOKOHAMA TIRE CORP	PO BOX 3250	SALEM	VA	24153	BHAVSAR, SANAT	(540)375-8209	96	2
20124	511210002	VA POLYTECH INST	DEPT OF PHYSICAL PLANT	BLACKSBURG	VA	24061	HALL, F.S.	(540)231-6291	96	2
20131	511610004	ROANOKE ELECTRIC STEEL CORP	PO BOX 13948	ROANOKE	VA	24038	BATES, KAREN	(540)342-1831	96	2
20144	511650023	VALLEY PROTEINS INC	P.O. BOX 3588	WINCHESTER	VA	22604	GIBSON, TOM	(540)833-6641	96	2
20147	511710013	HOWELL METAL CO	PO BOX 218	NEW MARKET	VA	22844	BRAINON, T O	(540)740-3111	96	1
20153	511650025	BUSH DUNHAM INC	101 BURGESS RD	HARRISONBURG	VA	22801	CARSON, J L	(540)434-0711	96	1
20157	510230009	COLUMBIA GAS TRANS CORP	PO BOX 1273	CHARLESTON	WV	25325	HOFFMAN, P M	(304)357-2548	96	2
20189	510150016	AMERICAN SAFETY RAZOR CO	PO BOX 500	STAUNTON	VA	24401	GAY, THOMAS	(540)248-8000	96	2
20212	511610002	SINGER FURNITURE	PO BOX 5337	ROANOKE	VA	24012	JACKSON, WANDA	(540)384-7232	96	1
20225	510710001	APG LIME CORPORATION	ST RT 635	RIPPLEHEAD	VA	24150	CUMBEE, D. K.	(540)626-7163	96	1
20226	510690025	LEAR CORPORATION - STRASBURG	P.D. BOX 9002	WINCHESTER	VA	22604	ROGERS, CHARLES P	(540)665-4444	96	2
20232	510230003	ROANOKE CEMENT COMPANY	PO BOX 27	CLOVERDALE	VA	24077	OMER, ROBERT M.	(540)966-1509	96	2

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20237	510690002	CROWN CORK & SEAL CO INC	PO BOX 2820	WINCHESTER	VA	226042020	BABIC, FRANK	(540)662-2591	96	3
20252	511710003	CHEMSTONE CORP	1696 ORANDA RD	STRASBURG	VA	22657	KISH, STEVE	(540)465-5161	96	1
20269	511630001	BURLINGTON IND., INC.	404 ANDERSON ST.	GLASGOW	VA	245552801	JINKS, DOUGLAS D	(540)258-2811	96	1
20304	510710004	HOECHST CELANESE CORP - CELCO PLANT	P O BOX 1000	NARROWS	VA	24124	LOCKARD, P.E.	(540)921-1111	96	3
20328	510050003	WESTVACO CORPORATION BLEACHED BOARD DIV	104 E RIVERSIDE ST	COVINGTON	VA	244261238	TAYLOR, JAMES C.	(540)969-5385	96	1
20329	510050011	WESTVACO CORPORATION	CARBON TECH CTR. WASHINGT	COVINGTON	VA	244260950	NELSON, J.D.	(540)969-3666	96	1
20333	510690060	O'SULLIVAN CORPORATION	P O BOX 3510	WINCHESTER	VA	22604	REZIN, J L	(540)665-2511	96	2
20338	511610181	HANCOCK, JOHN W., JR	PO BOX 3400	SALEM	VA	24153	SAIN, JIM	(540)389-0211	96	3
20341	510710003	APG LINE CORP	RT 635	RIPPLEMEAD	VA	24150	CUMBEE, D.K.	(540)626-7163	96	1
20391	510050013	ACADIA	PO BOX 529	CLIFTON FORGE	VA	24422	DURHAM, WALT	(540)863-2100	95	2
20420	511210017	FEDERAL HDGUL CORP	300 INDL PK RD SE	BLACKSBURG	VA	24060	MUNES, JACK	(540)951-1211	96	1
20430	510690001	ABEX FRICTION PRODUCTS	PO BOX 3250	WINCHESTER	VA	22604	SNYDER, ERIC	(540)662-3871	96	1
20447	510230006	GENERAL SHALE WEBSTER	PO BOX 3547	JOHNSON CITY	TN	37602	MCNEES, DAVE	(423)282-4661	96	2
20460	510710002	AMERICAN ELECTRIC POWER	1 RIVERSIDE PLAZA	COLUMBUS	OH	432152373	ROBIDA, MICHAEL R.	(614)223-1260	96	1
20468	511610083	N & W RAILWAY CO. ATTN: GIBSON BARBEE	110 FRANKLIN RD. S.E.	ROANOKE	VA	240420013	BARBEE, GIBSON	(540)981-5185	96	1
20469	511610084	AKZO NOBEL COATINGS INC.	PO BOX 4627	ROANOKE	VA	240150155	WINKLER, SAM	(540)982-8301	96	3
20470	511550001	PULASKI FURNITURE CORP	PO BOX 1371	PULASKI	VA	24301	PERDUE, B	(540)632-2166	96	3
20504	510690034	FREY, W S CO INC	PO BOX 65	CLEAR BROOK	VA	22624	GEORGIANA, M	(540)662-3855	96	2
20514	511650070	WALKER MANUFACTURING CO	3160 ABBOTT LANE	HARRISONBURG	VA	22801	BUENEMEYER, G	(540)434-2561	96	1
20517	510150009	DUPONT, EI DENEMOURS & CO	400 DUPONT BLVD	WAYNESBORO	VA	22980	SHIFFLETT, RONALD	(540)949-2844	96	2
20518	510150066	VIRGINIA METALCRAFTERS	PO BOX 1068	WAYNESBORO	VA	22980	COFFEY, LARRY	(540)949-9400	96	3
20520	511610087	INGERSOLL RAND CO	7500 SHADWELL DR	ROANOKE	VA	24019	MALIK, H J	(703)362-3321	93	3
20523	511610088	HOOKER FURNITURE CORP	2005 GREENBRIER AVE SE	ROANOKE	VA	24013	HAROLD, ROBERT	(540)344-4328	96	3
20524	511650001	MERCK & CO INC	PO BOX 7	ELKTON	VA	22827	VENCILL, C F	(540)298-1211	96	3
20548	511650073	ETHAN ALLEN INC	CHESAPEAKE AVE, P.O. BOX	BRIDGEWATER	VA	22812	STICKLEY, EDWARD	(540)828-2546	96	3
20570	511870001	RIVERTON CORP	1111 RIVERTON ROAD	FRONT ROYAL	VA	22630	RICKEY, R JEFF	(540)635-4131	96	1

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20656	511210006	RADFORD ARMY AMMO PLT	PO BOX 1	RADFORD	VA	241410100	WOJCIECHOSKI, PAUL	(540)639-8711	96	3
20675	510050024	VIRGINIA POWER	5000 DOMINION BOULEVARD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	2
20763	511210065	WOLVERINE GASKET COMPANY	201 IND PARK RD	BLACKSBURG	VA	24060	PATTERSON, JOHN	(540)552-7674	96	1
20764	511710046	JOHNS MANVILLE INTERNATIONAL INC	182 JOHNS MANVILLE DRIVE	EDINBURG	VA	22824	PROVOST, EDWARD R	(540)984-6213	96	2
20765	511550041	VOLVO GM HEAVY TRUCK CORP	PO BOX 1126	DUBLIN	VA	24084	ARNOLD, DAN	(540)674-7382	96	3
20789	511550038	PULASKI FURNITURE CORP	PO BOX 1169	DUBLIN	VA	24084	PERDUE, BILL	(540)632-2166	96	2
20798	510690062	CIVES STEEL CO	PO BOX 2778	WINCHESTER	VA	22604	HOLLIMAN, DONALD	(540)667-3480	96	2
20906	510150087	MCQUAY INTERNATIONAL	PO BOX 2510	STAUNTON	VA	24402	PUFFENBERGER, ROBE	(540)248-0711	96	1
20926	511650106	TRANSPRINT USA INC	1000 PLEASANT VALLEY ROAD	HARRISONBURG	VA	22801	WILLIS, KATHERINE	(540)433-9101	96	3
20944	510690071	STOWE-WOODWARD CO	PO BOX 250	MIDDLETOWN	VA	22645	GARONE, THOMAS H	(703)869-4000	96	3
20964	511710058	LEAR CORPORATION - STRASBURG	P.O. BOX 181	STRASBURG	VA	22657	WINTER, BRYAN	(540)465-3741	96	3
20992	511870026	DUPONT E I DE NEMOURS	PO BOX 4000	FRONT ROYAL	VA	22630	BARISCIAHO, W R	(540)662-1264	96	3
21000	511650114	DONNELLY R R & SONS	1400 KRATZER ROAD	HARRISONBURG	VA	22801	PREY, J W	(540)434-8833	96	3
21012	511650122	COORS BREWING CO	PO BOX 25	ELKTON	VA	22827	HEIDT, WARREN	(540)289-8115	96	2
21016	511650118	HARRISONBURG INCINERATOR	345 SOUTH MAIN STREET	HARRISONBURG	VA	22801	BISHOP, CARL	(540)433-1390	96	1
21045	510150098	LOFTON CORPORATION	PO BOX 478	GREENVILLE	VA	244400478	WITTIG, RON	(540)377-3200	96	3
21062	511710063	MERILLAT INDUSTRIES INC	PO BOX 719	MT. JACKSON	VA	22842	PITZER, JUDY	(540)477-2961	96	3
21078	511630051	EVERBRITE INC	627 EAST 30TH STREET	BUENA VISTA	VA	24416	CLINE, HEATHER	(540)261-2121	96	1
21080	511390026	LEAR CORPORATION - LURAY	31 STONEY BROOK LANE	LURAY	VA	22835	HENRY, KEITH	(540)743-7123	96	1
21090	510150101	NEUMAN USA LTD	PO BOX 160	VERONA	VA	24482	MUNCHMEYER, JOHN	(540)248-2703	96	2
21095	510690096	TENNECO FOAM PRODUCTS CO - WINCHESTER	PO BOX 3178	WINCHESTER	VA	226033178	FOX, VALERIE	(540)667-9740	96	1
21108	510690100	AUDIOPAK, INC.	P.O. BOX 3100	WINCHESTER	VA	22604	BRANDON, BARRY	(540)667-8125	96	3
21111	510690101	INSULATED BUILDING SYSTEMS INC	326 MCGHEE ROAD	WINCHESTER	VA	22603	TERPAK, MICHAEL T	(540)450-4886	96	2
21113	510050035	AUTOMOTIVE INDUSTRIES INC	PO BOX 1095	COVINGTON	VA	24426	GORE, BUDDY	(540)465-3741	96	1
21129	511610190	VITRAMON INC	PO BOX 11785	ROANOKE	VA	240220190	G. DALLAS CRAIG	(540)982-6706	96	3
21139	511390027	SHENANDOAH COMPRESSOR STATION	PO BOX 1273	CHARLESTON	WV	253251273	HOFFMAN, MICHAEL	(304)357-2548	96	2

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21154	510230031	VFP INC	4520 EASTPARK DRIVE	ROANOKE	VA	24019	DOUGLAS, MICHAEL	(540)997-0500	96	3
21157	510690107	FLEETWOOD TRAVEL TRAILERS OF VA	P.O. BOX 2370	WINCHESTER	VA	22604	BREWER, JADE	(540)662-3436	96	3
21158	510690108	GREEN BAY PACKAGING INC	P.O. BOX 3568	WINCHESTER	VA	22604	HANSEN, RUSSELL T	(540)678-2600	96	1
21170	510690112	SEAWARD INTERN'L INC	PO BOX 98	CLEAR BROOK	VA	226240098	MICHAEL, DAVID	(540)667-5191	96	3
21256	511210081	INTERMET CORPORATION--RADFORD	PO BOX 1012	RADFORD	VA	24141	FINK, MARK	(540)731-0413	96	1
30048	510890016	SARA LEE KNIT PRODUCTS	470 HANES HILL ROAD	WINSTON-SALEM	NC	27105	JESSEPH, STEVE	(910)519-7292	96	2
30072	510190006	MOORE, SAM FURNITURE INC	PO BOX 339	BEDFORD	VA	24523	GOAD, RANDY	(540)586-8253	96	2
30106	511430013	GOODYEAR TIRE & RUBBER CO	1901 GOODYEAR BLVD	DANVILLE	VA	24541	WREN, J O	(804)791-9243	96	3
30121	510310101	INTERMET FOUNDRIES-ARCHER CREEK	PO BOX 11589	LYNCHBURG	VA	24506	MOORE, TERRY	(804)528-8397	96	2
30124	510310032	DONNELLEY, R R PRINTING CO	PO BOX 11829	LYNCHBURG	VA	24506	TERRY, STEVE	(804)522-7455	96	2
30171	510890066	RIDGEWAY CLOCK CO	PO BOX 407	RIDGEWAY	VA	241480407	PURDUE, BILL	(540)956-3111	96	1
30181	510890007	FIELDCREST CANNON INC	PO BOX 219	FIELDALE	VA	24089	DILLON, LARRY	(540)673-6771	96	2
30185	511110010	ROYAL OAK ENTERPRISES, INC	PO BOX 403	KENBRIDGE	VA	23944	MCALLISTER, PAUL	(804)676-6238	96	3
30188	510310097	ROCK-TENN CO	PO BOX 980	LYNCHBURG	VA	245050980	BIBEE, ROBERT	(804)847-5521	96	2
30200	510290005	SOLITE CORP-OLD PLANT	PO BOX 68	ARVONIA	VA	23004	BURNS, DAVID	(804)581-3328	96	2
30240	511430002	DAN RIVER INC - SCHOOLFIELD COMPLEX	PO BOX 261	DANVILLE	VA	24543	GANN, PATTY W	(804)799-7389	96	1
30242	511430093	HICKSON DANHEM CORP	1975 RICHMOND BLVD	DANVILLE	VA	24543	BAGLEY, CHRIS	(804)797-8120	96	3
30248	510310085	LANE CO INC	PO BOX 151	ALTAVISTA	VA	24517	WILLIAMS, JOHN C	(804)369-5641	96	1
30260	510310006	BWX TECHNOLOGIES, INC	PO BOX 785	LYNCHBURG	VA	24505	COATS, R.L.	(804)522-5378	96	3
30261	510890004	HOOKER FURNITURE CORP	PO BOX 4708	MARTINSVILLE	VA	24115	PICKUREL, WAYNE	(540)632-2133	96	3
30279	510670014	LANE CO INC	PO BOX 189	ROCKY MOUNT	VA	24151	BOWYER, LEWIS	(540)483-5258	96	3
30283	511430001	DAN RIVER INC	PO BOX 261	DANVILLE	VA	24543	GANN, PATTY	(804)799-7389	96	3
30284	510890033	BASSETT FURNITURE INDUSTRIES	PO BOX 626	BASSETT	VA	240550626	NELSON, MIKE	(540)629-6000	96	2
30285	510890034	BASSETT FURNITURE INDUSTRIES	PO BOX 626	BASSETT	VA	240550626	NELSON, MIKE	(540)629-6000	96	3
30287	510890012	BASSETT FURNITURE INDUSTRIES	PO BOX 626	BASSETT	VA	240550626	NELSON, MIKE	(540)629-6000	96	3
30288	510890002	BASSETT FURNITURE CO	PO BOX 626	BASSETT	VA	24055	NELSON, MIKE	(540)629-6000	96	2

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30289	510890062	BASSETT FURNITURE INDUSTRIES	PO BOX 626	BASSETT	VA	240550626	NELSON, MIKE	(540)629-6000	96	1
30294	510890035	COURTAULDS PERFORMANCE FILMS INC	PO BOX 5068	MARTINSVILLE	VA	24115	KETTERER, JAMES S	(540)627-3000	96	3
30296	510190001	RUBATEX CORP	906 ADAMS ST	BEDFORD	VA	245232168	LEFTWICH, DREW	(540)586-2611	96	2
30297	511430005	VA SOLITE COMPANY	RT 1 BOX 101	CASCADE	VA	24069	GOVER, C.H., SR	(804)685-7021	96	2
30320	510890037	STANLEY FURNITURE CO INC	PO BOX 30	STANLEYTOWN	VA	241680030	HADDOX, DAVE	(540)627-2260	96	2
30321	510890006	DUPONT, ET DE NEMOURS & CO	1 DUPONT RD	MARTINSVILLE	VA	241124600	SHIFFLETT, RONALD	(540)949-2844	96	3
30326	510830004	ABB POWER TDO CO INC	PO BOX 920	SOUTH BOSTON	VA	24592	RANEY, BRIAN H.	(804)575-2244	96	1
30327	511410001	CHI INDUSTRIES INC	PO BOX 519	STUART	VA	24171	SULLIVAN, HARRY B.	(540)694-7171	96	3
30328	511410002	LIBERTY FABRICS	PO BOX 7	WOOLWINE	VA	24185	HANGRUM, BOBBY W	(540)930-2323	96	2
30330	511430032	MASONITE CORP	PO BOX 3327	DANVILLE	VA	24543	CASEY, B W	(804)797-1321	96	1
30368	510250001	BRICK & TILE CORP	PO BOX 45	LAWRENCEVILLE	VA	23868	WREN, J RETO	(804)848-3151	96	1
30378	510310001	BIBB COMPANY, THE	PO BOX 280	BROCKNEAL	VA	24528	WAGEMAKER, KEVIN	(804)376-2311	96	1
30379	511430003	BURLINGTON INDUSTRIES INC	PO BOX 2000	HURT	VA	24563	ROBERTS, P B	(804)324-4211	96	2
30380	510310071	BGF INDUSTRIES INC	401 AMHERST AVE	ALTAVISTA	VA	24517	SLOMINSKI, GREG	(804)369-4751	96	2
30386	510670023	H W MANUFACTURERS	PO BOX 559	ROCKY MOUNT	VA	24151	AKERS, LYNN	(540)483-0211	96	2
30389	510190003	GEORGIA-PACIFIC CORP	PO BOX 40	BIG ISLAND	VA	24526	MOORE, PAT	(804)299-5911	96	1
30397	510310095	GRIFFIN PIPE PRTS CO	PO BOX 740	LYNCHBURG	VA	24505	SONNE, CHRISTOPHER	(804)522-4772	96	2
30401	511170001	BURLINGTON INDUSTRIES INC	PO BOX 1410	CLARKSVILLE	VA	23927	FRENCH, KENNY	(804)374-3434	96	2
30409	510890045	BASSETT-WALKER INC	PO BOX 5423	MARTINSVILLE	VA	24115	EZELLE, R C	(540)634-3220	96	2
30422	511430038	CORNING INC	265 CORNING DR	DANVILLE	VA	24541	HUCKOLS, RM	(804)797-6354	96	3
30476	511410008	INTERNATIONAL PAPER CO	PO BOX 232	STUART	VA	24171	DAVIS, WILLIAM	(540)694-7151	96	2
40515	510890050	PULASKI FURNITURE CORP	PO BOX 3431	MARTINSVILLE	VA	241153431	PERDUE, WM., G.	(540)632-2166	96	2
40529	510890073	MULTITRADE GROUP INC	PO BOX 717	RIDGEWAY	VA	24148	BRAMMER, ED	(540)632-4071	96	3
40549	510090022	VA FIBRE CORPORATION	RT 823	AMHERST	VA	24521	PETCHUL, J J	(804)933-4117	96	3
40593	511430098	TIMES FIBER COMMUNICATIONS INC	380 TIGHTSQUEEZE IND PARK	CHATHAM	VA	24531	SCRUGGS, KEN	(804)432-1815	96	3
40595	510310123	SIEGWERK INC	4225 MURRAY PLACE	LYNCHBURG	VA	24506	ROTH, JUERGEN	(804)847-9033	96	2

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DEQ ID	AIRS ID	NAME	MAILING ADDRESS	CITY	STATE	ZIPCODE	CONTACT PERSON	TELEPHONE	INV. YEAR	BATCH#
30616	510110010	FOUNDERS FURNITURE CO	PO BOX 848	APPOMATTOX	VA	24522	MARTIN, S R	(804)352-4749	96	3
30635	510310110	THOMASVILLE FURNITURE INDUSTRIES INC	401 EAST MAIN ST (PO BOX	THOMASVILLE	NC	27361	CHISOM, ROCHELLE I	(910)476-2264	96	2
30692	510890064	AMERICAN FURNITURE CO INC	128 E CHURCH ST	MARTINSVILLE	VA	241155071	DAVIS, DAVID S	(540)634-4010	96	1
30718	511430100	OWENS-BROCKWAY GLASS CO	PO BOX 308	RINGGOLD	VA	24586	LACHMILLER, R E	(804)799-5880	96	2
30719	510890069	BASSETT MIRROR/PHILPOTT	242 TRENTHILL DR	BASSETT	VA	24055	MILLS, ANTHONY	(540)629-3341	96	1
30743	511110016	VA MARBLE MFRS INC	PO BOX 766	KENBRIDGE	VA	23944	BRIDGFORTH, WM L	(804)676-3204	96	2
30794	510830037	TOMKINS IND/LASCO BATHWARE	PO BOX 1177	SOUTH BOSTON	VA	24592	HARTMAN, SCOTT	(804)572-1200	96	3
30823	511430109	INTERTAPE POLYMER CORP	PO BOX 3367	DANVILLE	VA	24543	LUFFMAN, MIKE	(804)797-8273	96	1
30826	510890083	MULTITRADE OF MARTINSVILLE	PO BOX 717	RIDGEWAY	VA	24148	BRAMMER, ED	(540)632-4071	96	1
30837	510830042	O'SULLIVAN INDUSTRIES	PO BOX 860	SOUTH BOSTON	VA	24592	TOWNSEND, TOM	(804)572-9309	96	3
30845	510310153	STARMARK OF VIRGINIA	PO BOX 4798	LYNCHBURG	VA	24502	MORRIS, FRED	(804)385-7500	96	1
30859	510310156	LG&E-WESTMORELAND ALTAVISTA	104 WOODLANE AVENUE	ALTAVISTA	VA	24517	ARRUDA, RICHARD	(804)369-7805	96	2
30860	511170050	TRANSCO STATION 167	P.O. BOX 1396	HOUSTON	TX	772511396	WHITFIELD, MARY BE	(713)215-4562	96	2
30861	511170051	HECKLENBURG COGEN LTD PRTRNSHP	204 COGEN DR	CLARKSVILLE	VA	23927	BURNEY, GLENN	(804)374-6036	96	1
30863	510110011	TRANSCO STATION 170	PO BOX 1396	HOUSTON	TX	772511396	WHITFIELD, M B	(713)215-4562	96	3
30864	511430120	TRANSCO STATION 165	PO BOX 1396	HOUSTON	TX	772511396	WHITFIELD, MARY BE	(713)215-4562	96	2
30867	510830046	VIRGINIA POWER, CLOVER POWER STATION	PO BOX 245	CLOVER	VA	24534	WILKINSON, BILL	(804)273-3023	96	3
30871	511430123	MULTITRADE OF PITTSYLVANIA CO LP	ST RT-633	HURT	VA	24563	LEVESQUE, CARL	(804)324-8223	96	1
30872	510250027	BRICK & TILE CORP OF LAWRENCEVILLE	PO BOX 45	LAWRENCEVILLE	VA	23868	WRENN, J. REID	(804)848-3151	96	1
30876	510890090	DUTAILLIER VIRGINIA INC	PO BOX 4946	MARTINSVILLE	VA	24115	JONES, ROGER	(540)638-4101	96	1
30877	510890091	COURTAULDS PERFORMANCE FILMS INC	PO BOX 170	AXTON	VA	24054	KETTERER, JAMES	(540)627-3373	96	3
30903	510310163	GEORGIA PACIFIC CORP/BROOKNEAL OSB	PO BOX 340	BROOKNEAL	VA	24528	MCGEE, RICK	(804)283-1066	96	3
30905	510830050	J M HUBER CORP	ROUTE 626, BOX 38	CRYSTAL HILL	VA	24539	BOSIGER, KIMBERLY	(804)476-6628	96	1
30914	511110019	VA MARBLE MANUFACTURERS INC	PO BOX 766	KENBRIDGE	VA	23944	BRIDGFORTH, WILLIA	(804)676-3024	96	1
30973	511410022	VAUGHN FURNITURE COMPANY	PO BOX 847	STEWART	VA	24171	MCCELLELLAN, DUNCAN	(540)694-3208	96	1
40063	511330018	AMPRO FISHERIES INC	PO BOX 319	REEDVILLE	VA	225390319	BARNES, JOHN JR	(804)453-3808	96	1

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DEQ ID	AIRS ID	NAME	MAILING ADDRESS	CITY	STATE	ZIPCODE	CONTACT PERSON	TELEPHONE	INV. YEAR	BATCH#
40075	510470004	VA INDUSTRIES INC	BOX 939	CULPEPER	VA	22701	EAST, ANDY	(703)825-8334	96	2
40083	510790006	COLUMBIA GAS TRANS CORP	P.O. BOX 1273	CHARLESTON	WV	25325	PM HOFFMAN	(304)357-2548	96	1
40126	511010001	CHESAPEAKE PAPER PRODUCTS CO	19TH & MAIN STREETS	WEST POINT	VA	23181	WILSON, TEMPLE	(804)843-5525	96	2
40163	511370001	GENERAL SHALE WEBSTER	PO BOX 3547	JOHNSON CITY	TN	37602	WHITEHEAD, MIKE	(423)282-4661	96	3
40170	510470008	KELLER MANUFACTURING INC	PO BOX 280	CULPEPER	VA	22701	MABRY, C. L.	(540)825-1201	96	2
40197	511250003	NEW ALBERENE STONE INC	PO BOX 7825	CHARLOTTESVILLE	VA	229067825	SMITH, XONNA	(804)977-5500	96	3
40198	511590011	VIRGINIA POWER	5000 DOMINION BOULEVARD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	1
40199	510650001	VIRGINIA POWER	5000 DOMINION BOULEVARD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	1
40200	510030003	VA UNIVERSITY OF	575 ALDERMAN ROAD	CHARLOTTESVILLE	VA	22903	GOHEZ, CHERYL	(804)982-4637	96	3
40217	510010005	NASA WALLOPS FLT FAC	GOODARD SP CTR/BLOG F-16	WALLOPS ISLAND	VA	23337	PHILLIPS, W D	(757)824-1209	96	3
40218	510030018	UNIROYAL GOODRICH TIRE MFG INC	PO BOX 729	SCOTTSVILLE	VA	24590	MCILVAIN, STAN C	(804)286-1821	96	3
40278	511330011	ZAPATA PROTEIN (USA) INC	PO BOX 175	REEDVILLE	VA	22539	JONES, STEVE A	(804)453-4211	96	1
40304	510010006	DELMARVA POWER & LIGHT CO	PO BOX 231	WILMINGTON	DE	198990231	WIDOM, STU	(302)429-3621	96	3
40331	511770039	GENERAL PRODUCTS CO INC	PO BOX 7387	FREDERICKSBURG	VA	22404	HANEY, WENDELL	(540)898-5835	96	1
40333	510010002	TYSON FOODS INC-DELMARVA COMPLEX	PO BOX 8	TEMPERANCEVILLE	VA	23442	JOHNSON, TIM	(757)824-3471	96	3
40364	511370010	VA METAL INDUSTRIES INC	PO BOX 709	ORANGE	VA	22960	THOMPSON, PEGGIE	(540)672-2800	96	2
40483	510010010	PERQUE FARMS INC	101 SUTTON DRIVE	WINDSOR	NC	27983	HARRELL, RICK	(919)794-5555	96	2
40602	511310008	DELMARVA POWER & LIGHT CO	PO BOX 231	WILMINGTON	DE	198990231	WIDOM, STU	(302)429-3621	96	2
40608	511370016	LIBERTY FABRICS INC	PO BOX 308	GORDONSVILLE	VA	22942	ROBERT R SHUMAKER	(540)832-2261	96	1
40690	511770044	PRINTPACK INC	PO BOX 628	FREDERICKSBURG	VA	22404	TAFT, WAYNE	(540)373-7251	96	1
40696	511790029	CELLOFOAM N A INC	PO BOX 406	CONYERS	GA	30207	ROOKS, LAWRENCE	(770)483-4491	96	1
40726	511090025	VIRGINIA POWER	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	1
40743	511370022	ATLANTIC RESEARCH CORP.	7499 PINE STAKE RD	CULPEPER	VA	22701	BERKES, JAMES C.	(703)754-5448	96	3
40761	511770056	AUTOMATIC ROLLS OF VA	4406 OVERVIEW DR	FREDERICKSBURG	VA	22408	MIKE KUNZ	(540)898-7878	96	2
40779	511770058	GEORGIA FOAM, INC.	P.O. BOX 303	GAINESVILLE	GA	30503	RANDAL PINSON	(404)536-8888	96	2
40782	511370027	TRANSCONTINENTAL GAS PIPE LINE	7444 EVERONA RD	UNIONVILLE	VA	22567	VON DREHLE, WILLIA	(713)215-2113	96	3

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40789	510650016	TRANSCONTINENTAL GAS PIPE LINE (STA 175)	RURAL ROUTE 2 BOX 3941	SCOTTSVILLE	VA	24590	MARYBETH WHITFIELD	(713)215-4562	96	2
40808	511090040	GORDONSVILLE ENERGY, L. P.	115 RED HILL ROAD	GORDONSVILLE	VA	22942	HIGHT, J ANDREW	(540)832-3432	96	1
40809	510990012	SEI BIRCHWOOD POWER FACILITY	PO BOX 68	KING GEORGE	VA	22547	THOMAS DORSEY	(540)775-0400	96	2
40811	511770062	BOWMAN, A SMITH DISTILLERY INC	ONE BOWMAN DRIVE	FREDERICKSBURG	VA	22408	DANGLER, JOE	(540)373-4555	96	3
40828	511090042	KLEARFOLD INC	PO BOX 1430	LOUISA	VA	23093	STEVE OSWALD	(540)967-3653	96	2
40898	510010030	COMMONWEALTH CHESAPEAKE CORP.	P. O. BOX 249	WACHAPREAGUE	VA	23480	LALOR, PETER	(757)442-7748	95	3
50031	517600005	MILLER MFG CO	PO BOX 1356	RICHMOND	VA	23224	MS AWY LAPRADE	(804)232-4551	96	3
50052	510530001	SOUTHISIDE VA TRAINING CTR	PO BOX 4110	PETERSBURG	VA	23803	MR QUENNON BEATTY	(804)524-7410	96	1
50076	517600308	PHILIP MORRIS USA	PO BOX 26603	RICHMOND	VA	23261	RANDY N. MONTAPERT	(804)274-3467	96	1
50080	517600052	PHILIP MORRIS USA	2301 EVERETT ST	RICHMOND	VA	23261	RANDY N. MONTAPERT	(804)274-3467	96	2
50082	517600009	PHILIP MORRIS USA	PO BOX 26603	RICHMOND	VA	23261	RANDY N. MONTAPERT	(804)274-3467	96	2
50099	510410012	REYNOLDS METALS CO-BELLWOOD PLT #44	1701 REYMET ROAD	CHESTERFIELD	VA	23237	MR BUDDY PARKER	(804)743-6373	96	1
50126	517600013	VA COMMONWEALTH UNIV/HCV	PO BOX 980060	RICHMOND	VA	232980060	MR. JEFF RUSSMISEL	(804)828-1020	96	2
50127	510410015	DEFENSE GEN SUPPLY CTR (DSCR-WP)	8000 JEFF DAVIS HWY	RICHMOND	VA	23297	MS ADRIANNE D MOOR	(804)279-6465	96	3
50169	511830001	MASONITE CORPORATION	721 WEST MAIN STREET	WAVERLY	VA	23890	MS DEBORAH L. ELST	(804)834-2201	97	2
50224	517600093	FERGUSSON, J W & SONS INC	4641 INTERNATIONAL TRADE	RICHMOND	VA	23231	MR WINSTON HARMON	(804)275-4410	96	3
50232	516700026	ALLIEDSIGNAL INC	PO BOX 761	HOPEWELL	VA	23860	DRAKE, L E	(804)541-5732	96	3
50233	510410051	ALLIEDSIGNAL INC. - CHESTERFIELD PLANT	PO BOX 831	HOPEWELL	VA	23860	MS DEBORAH B PANNE	(804)530-6102	96	1
50249	510410003	REYNOLDS METALS CO-BELLWOOD	1901 REYMET RD	RICHMOND	VA	23237	MR DALE O CHAMBERS	(804)743-6424	96	2
50250	516700004	ALLIEDSIGNAL CHURCHILL PLANT	105 WINSTON CHURCHILL DRI	HOPEWELL	VA	23860	MR PHIL E HAGWOOD	(804)541-2061	96	3
50252	510410057	PHILIP ENVIRONMENTAL INC	1711 REYMET ROAD	CHESTERFIELD	VA	232373727	MR TONY DIORIO	(804)743-6506	96	1
50253	510810002	GEORGIA-PACIFIC CORP	116 SOUTH ALLEN ROAD	JARRATT	VA	23867	MR KEVIN R. KESSLE	(804)535-8541	96	2
50260	510410058	REYNOLDS METALS CO-BELLWOOD	PO BOX 27003	RICHMOND	VA	23261	MR R A HUNT	(804)743-6745	96	2
50270	517600104	FIBERMARK	140 TREDEGAR ST	RICHMOND	VA	23219	MR FRANK J LUDVIK	(804)649-4244	96	3
50283	510810020	GEORGIA-PACIFIC CORP	PO DRAWER D	EMPORIA	VA	23847	MR CLINT JOYNER	(804)634-5123	96	1
50292	510530048	BRENCO INC	PO BOX 389	PETERSBURG	VA	23803	WISNIEWSKI, C.	(804)732-0202	96	2

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50298	510410062	VA STATE UNIVERSITY	PO BOX 9408	PETERSBURG	VA	23806	MR HAL WALTON	(804)524-5707	96	1
50336	511810002	VIRGINIA POWER	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	MR A W HADDER	(804)273-3023	96	3
50341	517600127	JAMES RIVER BRICK CO	PO BOX 24096	RICHMOND	VA	23224	MR R J CASSELLA	(804)231-2885	95	1
50344	517600129	WESTVACO CORPORATION	320 HULL STREET	RICHMOND	VA	23224	MR. JEFF T. HOWARD	(804)233-9205	96	3
50355	517600012	RICHMOND PAPERBOARD INC	17 E. SECOND STREET	RICHMOND	VA	23224	MR LARRY FRANKLIN	(804)233-1274	96	3
50363	516700006	HERCULES INCORPORATED, AQUALON DIVISION	PO BOX 271	HOPEWELL	VA	23860	PEEK, K.W.	(804)541-4485	96	2
50370	516700003	STONE CONTAINER CORP	PO BOX 201	HOPEWELL	VA	23860	FURR, J. S., JR.	(804)541-9690	96	1
50396	510410002	VIRGINIA POWER	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	MR A W HADDER	(804)273-3023	96	1
50397	510410001	E I DUPONT DE NEMOURS & CO. INC.	PO BOX 27001	RICHMOND	VA	23261	MR LARRY NELSON	(804)383-2581	96	3
50418	510410073	ICI AMERICAS, INC.	PO BOX 411, BERMUDA HUNDR	HOPEWELL	VA	23860	MR WADE B LANING	(804)530-9456	96	2
50528	517600246	CARPENTER CO	PO BOX 34526	RICHMOND	VA	23234	MS. LISA TOOLE	(804)233-8391	96	2
50534	517600002	REYNOLDS METALS CO-SOUTH PLT	PO BOX 24688	RICHMOND	VA	23224	MR GLENN JOHNSON	(804)230-5285	96	3
50554	510410078	E I DU PONT DE NEMOURS & CO	1201 BELLWOOD ROAD	RICHMOND	VA	23237	MR J R WASILIK	(804)275-2745	96	2
50707	517600344	RICHMOND GRAVURE/INTERNATIONAL PAPER	3400 DEEPWATER TERMINAL R	RICHMOND	VA	23234	JOHN STREPELIS	(804)230-5435	96	1
50722	510410081	PHILIP MORRIS-PARK 500	PO BOX 26603	RICHMOND	VA	23261	MS ELLEN SNYDER	(804)274-5221	96	1
50730	510870127	VIASYSTEMS TECHNOLOGIES CORPORATION	4500 S LABURNUM AVE	RICHMOND	VA	232312422	MR EARL SHERWOOD	(804)226-5491	96	1
50735	516700053	HOPEWELL REG WATER TREATMENT FACILITY	PO BOX 969	HOPEWELL	VA	23860	MR BOB STEIDEL	(804)541-2219	96	1
50766	510410133	THE HON COMPANY	11200 OLD STAGE ROAD	CHESTER	VA	23831	MR. DIRRICK SIMMON	(804)796-3116	96	2
50831	510410114	ALLIED SIGNAL INC	PO BOX 31	PETERSBURG	VA	23804	MR MARK D BARNETT	(804)520-3221	96	2
50833	510410105	ROSLYN CONVERTERS INC C/O MUNDET INC	PO BOX 70	COLONIAL HEIGHTS	VA	23834	MR G FRANCIS	(804)748-3319	96	3
50840	510850042	BEAR ISLAND PAPER COMPANY, L.P.	PO BOX 2119	ASHLAND	VA	23005	MS LORI BONDS	(804)227-4105	96	3
50856	510530084	B I CHEMICALS INC	PO BOX 1658	PETERSBURG	VA	23805	DAVID REDALIEU	(804)863-0098	96	3
50880	510870130	QUEBECOR PRINTING RICHMOND	7400 IMPALA DR	HENRICO	VA	23228	MR EDWARD HALL	(804)264-3834	96	1
50906	510410110	SUPER RADIATOR	PO BOX 35687	RICHMOND	VA	23235	MR RAY BIRK	(804)794-2887	96	2
50925	517600377	WESTVACO CORPORATION	320 HULL STREET	RICHMOND	VA	23224	JEFF T. HOWARD	(804)233-9205	96	1
50941	510810037	GEORGIA-PACIFIC CORP	P.O. BOX 309	SKIPPERS	VA	23879	CLINT JOYNER	(804)634-6133	96	3

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50949	510870144	GRAPHIC PACKAGING CORP OF VIRGINIA	4500 SARELLEN RD	RICHMOND	VA	23231	MR RICH KAIM	(804)222-1016	96	3
50950	516700055	JAMES RIVER COGENERATION CO.	9405 ARROWPOINT BLVD	CHARLOTTE	NC	282730000	MS TRACY L PATTERS	(804)541-4246	96	1
50967	516700058	HOPEWELL COGENERATION LTD PARTNERSHIP	1114 HERCULES RD	HOPEWELL	VA	238600000	MS ANNA SHORE	(804)458-0700	96	2
50986	510410123	WAKO CHEMICAL USA INC	1600 BELLWOOD ROAD	RICHMOND	VA	23237	MR DAVID E ALWOOD	(804)271-7677	96	3
50988	517600389	VIRGINIA POWER-BELLEMEADE	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	MR A W HADDER	(804)273-3023	96	2
50997	510870156	VIRGINIA POWER	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	MS LAURA BRENT	(804)273-3016	96	2
51000	510870159	STERILIZATION SERVICES OF VIRGINIA	6005 BOATROCK BLVD	ATLANTA	GA	30336	MR GRAHAM PERRY	(804)236-1652	96	1
51002	510750026	COLUMBIA GAS TRANSMISSION CORP	PO BOX 1273	CHARLESTON	WV	253251273	MR P M HOFFMAN	(304)357-2548	96	2
51009	511490062	COLUMBIA GAS TRANS CORP	PO BOX 1273	CHARLESTON	WV	25325	MR P M HOFFMAN	(304)357-2548	96	3
51018	510850061	DOSWELL PLANT OPERATIONS	PO BOX 1805	ASHLAND	VA	23005	MIKE GRANT	(804)227-2046	96	2
51019	516700063	LG & E-WESTMORELAND HOPEWELL	107 TERMINAL STREET	HOPEWELL	VA	23860	MR DAVE SMITH	(804)452-1300	96	1
51028	510530080	PRE CON INC	PO BOX 212	COLONIAL HEIGHTS	VA	23834	MR JERRY L WAUFORD	(804)732-2986	96	2
51033	517600399	COGENTRIX OF RICHMOND INC	9405 ARROWPOINT BLVD	CHARLOTTE	NC	28273	MS TRACY L PATTERS	(804)541-4246	96	3
51069	510870168	RICHMOND ELECTRIC	PO BOX 3151; 757 N ELDRID	HOUSTON	TX	772533151	MS. ANNA PATTERSON	(281)870-7446	96	2
51095	510870176	CSX TRANSPORTATION INC	500 WATER ST	JACKSONVILLE	FL	32202	MR RICHARD K NATH	(904)359-1499	96	1
51201	510750030	COMBINED HEAT & POWER INC C/O INGENCO	2369 LANIER ROAD	ROCKVILLE	VA	23146	PETER MOLLITERNO	(804)749-4786	96	2
50033	518100013	NAVAL AMPHIB BASE-LITTLE CRK	N461/1450 GATOR BLVD	NORFOLK	VA	23521	PEARCE, BRIAN	(757)464-8341	96	1
50051	516500006	NASA-LANGLEY RESEARCH CTR	RT 172/3 HI N OF I-64	HAMPTON	VA	236810001	BROWN, R.D.	(757)864-3609	96	3
50065	510950008	BALL METAL BEVERAGE CONTAINER CORP	8935 POCAHONTAS TRAIL	WILLIAMSBURG	VA	23185	CASE, TIM	(303)460-5239	96	3
50106	516500010	HAMPTON UNIVERSITY	E QUEEN ST	HAMPTON	VA	23668	EDWARDS, K.	(757)727-5263	96	1
50108	517100028	COLONNA'S SHIPYARD	400 EAST INDIAN RIVER RD	NORFOLK	VA	23523	WHEATLEY, FRANK	(757)545-2414	96	3
50116	511990004	AMOCO PETROLEUM PRODUCTS, REFINING BG	2201 GOODWIN NECK ROAD	GRAFTON	VA	236920578	KEITH, ALVIN	(757)898-9701	96	3
50134	517100034	METRO MACHINE CORP	PO BOX 1860	NORFOLK	VA	23501	LASSALLE, E D	(757)494-0714	96	1
50137	511990001	VIRGINIA POWER	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	2
50152	510950010	ANHEUSER-BUSCH INC	PO BOX 8787	WILLIAMSBURG	VA	231878787	ASTON, KATHRYN M.	(757)253-2136	96	2
50153	517000013	NEWPORT NEWS SHIPBUILDING CO	4101 WASHINGTON AVENUE	NEWPORT NEWS	VA	236072770	F H THORN	(757)688-9247	96	3

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50163	515500026	VIRGINIA POWER	5000 DOMINION BLVD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	3
50164	517100042	SENTARA NORFOLK GEN HOSPITAL	600 GRESHAM DRIVE	NORFOLK	VA	23507	YOUNG, ROBERT	(757)668-3387	96	2
50171	510930018	UNION CAMP	PO BOX 178	FRANKLIN	VA	23851	MLODYKA, DENISE	(757)569-4194	96	3
50188	511750012	HERCULES INCORPORATED	27123 SHADY BROOK TRAIL	COURTLAND	VA	23837	SPENCE, STEVE	(757)562-3121	96	2
50208	517000019	MICA CO OF CANADA	900 JEFFERSON AVE	NEWPORT NEWS	VA	23607	M FIELD	(757)244-7311	96	3
50214	510930006	UNION CAMP CORP/FINE PAPER DIV	PO BOX 178	FRANKLIN	VA	23851	RAULSTON, SHERYL	(757)569-4558	96	3
50234	517100068	UNITED STATES GYPSUM COMPANY	1001 BUCHANAN STREET	NORFOLK	VA	23523	MCPHAIL, LANCE	(757)545-2461	96	1
50246	517100006	NORFOLK SHIPBUILDING & DRYDOCK	PO BOX 2100	NORFOLK	VA	235012100	DICKSON, PAUL	(757)494-4663	96	1
50268	517100009	FORD MOTOR CO-NORFOLK ASSEMBLY	2424 SPRINGFIELD AVE	NORFOLK	VA	23523	DAVIS, G B	(757)494-2059	96	3
50270	510930011	SMITHFIELD PACKING COMPANY, INC.	111 NORTH CHURCH STREET	SMITHFIELD	VA	23430	TAYLOR, DAVE	(757)357-4321	96	3
50277	515500038	CARGILL INC	PO BOX 7506	CHESAPEAKE	VA	23324	MULHOLLAND, JOHN	(757)494-5582	96	1
50280	518100006	FLEET CMBT TRG CTR ATLNTC-DAM NECK/VA	CODE N622/1912 REGULUS AV	VIRGINIA BEACH	VA	23461	DIN, WILKIE	(757)433-6709	96	1
50291	517400024	HOECHST-CELANESE	3340 WEST NORFOLK ROAD	PORTSMOUTH	VA	23703	LEE, ADRENNE	(757)483-7206	96	3
50293	517400007	NAVAL MEDICAL CENTER/PORTSMOUTH	FAC MGMT DEPT/BLDG-273	PORTSMOUTH	VA	23708	WALL, ROBERT	(757)953-5669	96	1
50294	518100004	U S GOVT NAVAL AIR STATION-OCEANA	ENVR. DIV. CODE 189, BLD	VIRGINIA BEACH	VA	234605120	BLAU, GERALD	(757)433-2589	96	2
50299	517100092	BON SECOURS - DEPAUL MEDICAL CENTER	150 KINGSLEY LANE	NORFOLK	VA	23505	CRAMER, RUSSELL T.	(757)889-5240	96	2
50326	517400006	USN-NORFOLK NAVAL SHIPYARD	CODE106-31	PORTSMOUTH	VA	23709	COBB, STEPHEN	(757)396-7231	96	3
50333	517000002	U S ARMY FT EUSTIS	BLDG 1407, ATZF-PWE	FT EUSTIS	VA	23604	LUKASZEWICZ, DAN	(757)878-1995	96	2
50349	517100196	HRSD-ARMY BASE PLANT	PO BOX 5911	VIRGINIA BEACH	VA	23455	FELTNER, MARK	(757)460-2261	96	2
50350	517100197	HAMPTON ROADS SANITATION DISTRICT	PO BOX 5911	VIRGINIA BEACH	VA	23455	FELTNER, MARK	(757)460-2261	96	1
50351	517000068	HAMPTON ROADS SANITATION	PO BOX 5911	VIRGINIA BEACH	VA	23471	FELTNER, MARK	(757)460-2261	96	2
50355	510950023	HRSD-WILLIAMSBURG PLANT	PO BOX 5911	VIRGINIA BEACH	VA	23455	MARK FELTNER	(757)460-2261	96	2
50431	518100034	HAMPTON ROADS SANITATION DISTRT	PO BOX 5911	VIRGINIA BEACH	VA	23471	FELTNER, MARK	(757)460-2261	96	3
50635	516500053	HAIDA DEVELOPMENT CO	20 S LIBBY ST	HAMPTON	VA	23663	ZOUMPLIS, N	(757)723-0785	96	3
50851	515500056	CHESAPEAKE HARDWOOD PDTS	PO BOX 1188	CHESAPEAKE	VA	23327	BRANDT, JOHN M.	(757)543-1601	96	1

VIRGINIA TITLE V FACILITIES

DEQ ID	AIRS ID	NAME	MAILING ADDRESS	CITY	STATE	ZIPCODE	CONTACT PERSON	TELEPHONE	INV. YEAR	BATCH#
60913	517000066	SHOREWOOD PACKAGING	815 CHAPHAN WAY	NEWPORT NEWS	VA	23608	HOLLEY, KEN	(757)877-1234	96	3
60923	510950022	OWENS-BROCKWAY/GLASS CONTAINER DIV	150 INDUSTRIAL BLVD	TOANO	VA	23168	CAVALIERO, T M	(757)566-2423	96	2
60941	517100194	USN COMNAVBASE-NORFOLK, CODE N-45	1530 GILBERT ST., SUITE	NORFOLK	VA	235112797	BARNETT, CHERRYL	(757)322-2887	96	3
60963	511750048	VALLEY PROTEINS INC	P.O. BOX 3588	WINCHESTER	VA	22604	GIBSON, TOM	(540)877-2590	96	2
61018	517400078	SPSA RDF PLANT	723 WOODLAKE DRIVE	PORTSMOUTH	VA	23320	MILES, DANIEL	(757)420-4700	96	3
61019	516500061	HAMPTON/NASA STEAM PLANT	50 WYTHE CREEK RD/ADJ ST	HAMPTON	VA	23669	AUSTIN, J S	(757)865-1914	96	1
61038	517100219	AMERICAN WASTE INDUSTRIES INC	508 E INDIAN RIVER ROAD	NORFOLK	VA	23504	EARL, ROBERT L	(757)543-7110	96	2
61049	517400081	COGENTRIX VA LEASING CORP	9405 ARROWPOINT BLVD	CHARLOTTE	NC	28217	PATTERSON, TRACY	(804)541-4246	96	2
61085	517000091	KINYO VIRGINIA INC	290 ENTERPRISE DRIVE	NEWPORT NEWS	VA	23603	ARMSTRONG, DON	(757)888-2221	96	1
61093	511750051	LG&E-WESTMORELAND SOUTHAMPTON	30134 GENERAL THOMAS HIGH	FRANKLIN	VA	23851	MCPHILLIPS, MICHAEL	(757)562-0692	96	1
61108	515500161	COMMONWEALTH ATLANTIC LTD PARTNERSHIP	2837 MILITARY HWY	CHESAPEAKE	VA	23323	MILLER, FRANK	(757)487-9092	96	2
70028	510590024	DC DEPT CORR/LORTON REFORMATORY	PO BOX 25	LORTON	VA	22079	KAPOOR, AJAY	(703)643-1356	96	1
70030	510130010	PENTAGON UTILITIES PLANT	425 OLD JEFFERSON DAVIS H	ARLINGTON	VA	22202	MAGUIRE, BRIAN J	(703)697-4478	96	3
70033	511530014	ATLANTIC RESEARCH CORP	5945 WELLINGTON ROAD	GAINESVILLE	VA	201551699	BERKES, JAMES	(703)754-5448	96	1
70087	510590034	EXXON COMPANY USA	PO BOX 1060	NEWINGTON	VA	22122	COLUCCIO, CHRISTIN	(703)550-3513	96	3
70151	510590056	WASHINGTON GAS LIGHT/SPFLD OPER CENTER	6801 INDUSTRIAL ROAD	SPRINGFIELD	VA	22151	BRADY, MARY JEAN	(703)750-5558	96	1
70220	510590061	AMOCO OIL CO	9601 COLONIAL AVENUE	FAIRFAX	VA	22031	BOYD, DENNIS	(703)503-3685	96	2
70224	510590063	CITGO PETROLEUM CORP	9600 COLONIAL AVE	FAIRFAX	VA	22031	BENTZ, A W	(703)323-1100	96	2
70225	511530002	VIRGINIA POWER	5000 DOMINION BOULEVARD	GLEN ALLEN	VA	23060	HADDER, A W	(804)273-3023	96	2
70228	515100003	PEPCO	1900 PENNSYLVANIA AVENUE	WASHINGTON	DC	20068	FOLTZ, RICHARD	(202)872-2799	96	1
70234	510590064	SHELL OIL PRODUCTS	P.O. BOX 2099	HOUSTON	TX	772522099	EVANS, JIM	(713)241-3567	96	3
70235	511530060	MOBIL OIL CO	10315 BALLS FORD RD	MANASSAS	VA	22110	HELFRICH, W J	(703)368-9141	96	3
70248	510590069	STAR ENTERPRISE	3800 PICKETT ROAD	FAIRFAX	VA	22031	NORMAN, JILL J	(615)359-8088	96	1
70267	511530010	FACILITIES DIVISION, MCCDC	NREAB, 3040 MCCAWLEY AVEN	QUANTICO	VA	221345000	MARK BRONCA	(703)784-4030	96	2
70550	510590018	US ARMY FORT BELVOIR	ANFB-PWE/9430 JACKSON LP	FORT BELVOIR	VA	220605130	MCLAUGHLIN, P M	(703)806-4007	96	2
70714	510590281	LOWER POTOMAC POLLUTION CONTROL PLT	P.O. BOX 268	LORTON	VA	22199	HOGGE, ALLEN	(703)550-9740	96	3

General Notices/Errata

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

† Public Notice

Expansion of Medallion II in the Areas Surrounding Tidewater

Medallion II began January 1, 1996, as the newest managed care initiative for the Virginia Medical Assistance Program. This program initially covered Medicaid populations located in Chesapeake, Norfolk, Portsmouth, Virginia Beach, Hampton, Newport News and Poquoson. Medallion II requires mandatory enrollment into a contracted Health Maintenance Organization (HMO) for certain groups of Medicaid recipients. These HMOs are responsible for providing most services covered by Medicaid.

Effective November 1, 1997, Medallion II will expand to include recipients residing in the following Tidewater localities:

- York County;
- James City County;
- Gloucester County
- City of Williamsburg;
- Isle of Wight County; and
- City of Suffolk

Medallion II Medicaid recipients in these localities will be pre-assigned to an HMO (plan), but have approximately 60 days to select an alternative plan if they prefer. Thereafter, recipients may request plan changes monthly.

Medicaid recipients in the following groups are excluded from Medallion II. When recipients no longer meet the criteria for exclusion, they will be required to enroll in an HMO. The groups are:

- Individuals approved by the Department of Medical Assistance Services as inpatients in nursing facilities, state mental hospitals, long-stay hospitals, intermediate care facilities for the mentally retarded, or hospices;
- Individuals preassigned to an HMO but who have not yet been enrolled, who are inpatients in hospitals other than those listed above, until the first day of the month following discharge;
- Foster care children and subsidized adoption participants;
- Individuals with a Medicaid spend-down requirement;
- Individuals with any other comprehensive group or individual health insurance coverage, including Medicare;

- Individuals participating in federal waiver programs for home-based and community-based Medicaid care;
- Individuals in their third trimester of pregnancy upon initial assignment to Medallion II and who request exclusion;
- Individuals who live outside their area of residence for greater than 60 days except those individuals placed there for medically necessary services funded by the HMO;
- Individuals preassigned to an HMO but who have not yet enrolled, who have been diagnosed with a terminal condition and who have a life expectancy of six months or less, if they request exclusion. The client's physician must certify the life expectancy;
- Individuals preassigned to an HMO but not yet enrolled, who are scheduled for surgery which is scheduled to be within 30 days of the initial enrollment in the HMO which requires an inpatient hospital stay, until the first day of the month following discharge; and
- Individuals in their ninth month of pregnancy, when they are or will be automatically assigned or reassigned and were not in the Medicaid HMO to which they are assigned or reassigned within the last seven months, if they are seeking care from a provider (physician or hospital or both) not affiliated with the HMO to which they were previously assigned. Exclusion requests may be made by the HMO, a provider, or the recipient.

Medicaid recipients enrolled in Medallion II HMOs will still receive some services outside the HMO's network, such as community mental health, mental retardation and substance abuse treatment services, school-based services, certain targeted case management services, and regular assisted living services. Recipients have the option of receiving emergency and family planning services from the provider of their choice.

Those recipients who are excluded from Medallion II are provided Medicaid services under the current fee-for-service program. Additional information about this program expansion can be obtained by contacting the department's Director of Managed Care, Cheryl Roberts, at (804) 786-6147.

STATE WATER CONTROL BOARD

† Enforcement Action

**Proposed Consent Special Orders
Appomattox Servistar Oil Company
Bedford County Public Schools
Georgia-Pacific Corporation
T & T Petroleum Company**

**Proposed Amendments to Consent Special Orders
U.S. Army/Alliant Techsystems Inc.**

The State Water Control Board and the Department of Environmental Quality propose to issue Consent Special Orders for:

1. Appomattox Servistar Oil Company (FC-02-0607 and pollution complaints 93-1696, 96-0660, and 97-1078) in the Town of Appomattox. This order requires Appomattox Servistar to come into full compliance with all aboveground and underground storage tank regulations, to complete site remediation for past spills, and to perform a supplemental environmental project (SEP) by paying a portion of the cost of replacing a sewer line impacted by past spills. Appomattox Servistar will pay a civil charge of \$3,500, of which \$1,500 will be suspended upon completion of the SEP.
2. Bedford County Public Schools. This order reschedules wastewater treatment plant upgrades to meet ammonia limits at seven schools and expansion to satisfy the board's 95% flow policy regulation at one school. The schools involved are Body Camp Elementary School (VA0020818), Liberty High School (VA0020796), New London Academy (VA0020826), Otter River Elementary School (VA0020851), Staunton River High School (VA0063738), Stewartville Elementary School (VA0020842), and Thaxton Elementary School (VA0020869). All work will be complete by March 31, 2000.
3. Georgia-Pacific Corporation, Big Island Plant (Solid Waste Management permit no. 198; VPDES permit no. VA0003026, outfall 028). Two orders are being noticed together for this plant: a solid waste order under 9 VAC 20-80-110 and a water order under §§ 10.1-1185 and 62.1-44.15(8a) of the Code of Virginia. The waste order requires improvements to leachate management including the elimination of outfall 028 by January 17, 1998. The water order establishes interim limits of 'No Limit' for pH, chlorides, and whole effluent toxicity for outfall 028 from the effective date of the order until the time of its elimination as required in the waste order. Georgia-Pacific will continue to monitor and report during this interval.
4. T & T Petroleum Company, Inc. This order requires T&T to complete proper closure reports for underground storage tanks (USTs) at three service stations, to submit

site characterizations for all three sites, and, if required on the basis of the site characterizations, to submit a complete, approvable Corrective Action Plan. The order assesses a \$2,500 civil charge, of which \$1,500 is suspended.

The State Water Control Board and the Department of Environmental Quality propose to amend Consent Special Orders for:

5. U.S. Army and Alliant Techsystems Inc., for the Radford Army Ammunition Plant (RAAP, VPDES permit no. VA0000248) in Montgomery and Pulaski counties. This amendment potentially extends the compliance deadline for temperature and whole effluent toxicity for outfall 007 depending on the timeliness of the conclusion of the National Environmental Policy Act (NEPA) and permitting processes for the construction of a diffuser required by the permit. The amendment also cancels all compliance schedules that have been fulfilled under the original order or previous amendments.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive written comments relating to the proposed action until October 15, 1997. Comments should be addressed to James F. Smith, West Central Regional Office, Department of Environmental Quality, 3019 Peters Creek Road, NW, Roanoke, VA 24019, or FAX 540-562-6725, and should refer to Appomattox Servistar, Bedford County Schools, Georgia-Pacific, T & T Petroleum, or RAAP. Comments specific to the Georgia-Pacific waste order should be directed to Robert P. Steele at the same address and FAX number.

The proposed order may be examined at the Department of Environmental Quality, Office of Enforcement, 629 East Main Street, Richmond, VA, or at the Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, NW, Roanoke, VA. Copies of the orders and amendments may be obtained in person or by mail from these offices.

† Enforcement Action

**Proposed Special Orders
Gate City Sanitation Authority
Town of Chilhowie
Town of Honaker**

The State Water Control Board proposes to take an enforcement action against the sewage treatment plants for the above listed owners. Under the terms of the proposed Special Orders, the owner of these facilities have agreed to be bound by the terms and conditions of effluent limitations and monitoring and reporting requirements contained in individual appendices within the respective orders. These requirements contained in the orders bring the facilities into compliance with state law and will protect water quality.

On behalf of the State Water Control Board, the Department of Environmental Quality will receive comments relating to the

General Notices/Errata

Special Orders until October 15, 1997. Comments should be addressed to Dallas Sizemore, Department of Environmental Quality, Southwest Regional Office, P.O. Box 1688, Abingdon, Virginia 24212 and should refer to the Consent Special Order.

The proposed orders may be examined at the Department of Environmental Quality, 355 Deadmore Street, Abingdon, Virginia, at the same address.

Copies of the individual orders may be obtained in person or by mail from the above office.

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 CORPORATION COMMISSION

Bureau of Financial Institutions

Title of Regulation: 10 VAC 5-170-10 et seq. Electronic Funds Transfer (Repealed).

Publication: 13:24 VA.R. 3214 August 18, 1997; Erratum published 13:25 VA.R. 3420 September 1, 1997.

Correction:

The effective date of the repeal of 10 VAC 5-170-10 et seq. was inadvertently omitted from publication. This regulation is repealed effective July 29, 1997.

Division of Securities and Retail Franchising

Title of Regulation: 21 VAC 5-20-10 et seq. Securities Act Regulations.

Publication: 13:25 VA.R. 3381-3407 September 1, 1997.

Correction to Final Regulation:

Page 3391, column 1, 21 VAC 5-20-260 C, line 7, after "exercise" strike "*diligent*" and insert "*reasonable*"

Page 3398, column 2, 21 VAC 5-80-130 B 5, line 4, change "Articles 10 through 14" to "Parts I through V"

Page 3407, column 1, last form, after "*Filing*" strike "(4/97)"

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Regulation: 12 VAC 30-90-10 et seq. Methods and Standards for Establishing Payment Rates for Long-Term Care.

Publication: 13:25 VA.R. 3273 September 1, 1997

Correction to Notice of Intended Regulatory Action:

Page 3273, column 1, line 4, change "12 VAC 30-90-380" to "12 VAC 30-90-10 et seq."

Title of Regulation: 12 VAC 30-120-10 et seq. Waivered Services.

Publication: 13:25 VA.R. 3273 September 1, 1997.

Correction to Notice of Intended Regulatory Action:

Page 3273, column 2, line 4, change "12 VAC 30-120 Part VIII, Medallion II: Waivered Services" to "12 VAC 30-120-10 et seq. Waivered Services."

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

† October 20, 1997 - 10 a.m. -- Open Meeting

† October 21, 1997 - 8 a.m. -- Open Meeting

Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ♿

An open meeting to discuss regulatory review, request for proposals for privatization, 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. 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 for Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

BOARD OF AGRICULTURE AND CONSUMER SERVICES

September 30, 1997 - 1 p.m. -- Open Meeting

Department of Agriculture and Consumer Services,
Washington Building, 1100 Bank Street, 2nd Floor Board Room, Richmond, Virginia.

A meeting to discuss regulations and consider other matters relating to its responsibilities. 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 E. Seward at least five days before the meeting date so that suitable arrangements can be made.

Contact: Roy E. Seward, Secretary to the Board, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Room 211, P.O. Box 1163, Richmond, VA 23219, telephone (804) 786-3538.

December 11, 1997 - 1:30 p.m. -- Public Hearing

State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

October 20, 1997 -- Public comments may be submitted until 8:30 a.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to amend regulations entitled: **2 VAC 5-180-10 et seq. Rules and Regulations Governing Pseudorabies in Virginia.** Pseudorabies is a disease that exacts a high death toll among the animals it infects, many of which are domesticated animals. Among the animals that can be infected with pseudorabies are cattle, sheep, dogs, cats, and notably, swine. There is no known evidence that humans can contract pseudorabies. Most kinds of animals infected with pseudorabies die before they can infect other animals (death usually occurs within 72 hours after infection). Swine are a different matter. Although pseudorabies can kill swine (the younger the swine, the higher the rate of mortality), they also can recover from the disease and spread it to other swine and to other kinds of animals. Virginia's regulations to eradicate pseudorabies from swine are part of a national program designed to rid the nation of pseudorabies.

This regulation provides rules to govern the program for the eradication of pseudorabies from swine in Virginia. The purpose of this action is to revise the regulation and increase its effectiveness, including but not limited to amending the regulation to allow Virginia to participate in the national program to eradicate pseudorabies at whatever stage its circumstance at a particular time would allow--whether Stage I or Stage V, or any stage in between.

Calendar of Events

Statutory Authority: §§ 3.1-724, 3.1-726 and 3.1-730 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on October 20, 1997, to Dr. W. M. Sims, Jr., Division of Animal Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: Thomas R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

December 11, 1997 - 1:30 p.m. -- Public Hearing
State Capitol, Capitol Square, House Room 4, Richmond, Virginia.

October 20, 1997 -- Public comments may be submitted until 8:30 a.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Agriculture and Consumer Services intends to **amend** regulations entitled: **2 VAC 5-205-10 et seq. Rules and Regulations Pertaining to Shooting Enclosures.** This regulation provides rules to govern shooting enclosures in Virginia. The purpose of this action is to promulgate regulations providing for licensing shooting enclosures, establishing a licensing fee, and establishing criteria for the operation and management of the enclosures to include the health status of the animals held in the enclosure. The regulation also establishes which animals can be held in the shooting enclosures: goats, sheep and swine.

Statutory Authority: § 3.1-763.5:5 of the Code of Virginia.

Public comments may be submitted until 8:30 a.m. on October 20, 1997, to Dr. W. M. Sims, Jr., Division of Animal Industry Services, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218-1163.

Contact: Thomas R. Lee, Program Supervisor, Department of Agriculture and Consumer Services, Washington Bldg., 1100 Bank St., Suite 600, Richmond, VA 23219, telephone (804) 786-2483 or FAX (804) 371-2380.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Pesticide Control Board

September 25, 1997 - 10 a.m. -- Open Meeting
Washington Building, 1100 Bank Street, Board Room, Room 400, Richmond, Virginia. ☎

A meeting to discuss the changes to the Regulations Governing Pesticide Applicator Certification. Portions of the meeting may be held in closed session pursuant to §

2.1-344 of the Code of Virginia. 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.

† **October 16, 1997 - 9 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, Board Room, Room 204, Richmond, Virginia. ☎

Committee meetings and a general business meeting. Portions of the meeting may be held in closed session pursuant to § 2.1-344 of the Code of Virginia. The public will have an opportunity to comment on any matter not on the board's agenda beginning at 9 a.m. Any person who needs any accommodations in order to participate at the meeting should contact Dr. Marvin A. Lawson at least 10 days before the meeting date so that suitable arrangements can be made.

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

Virginia Winegrowers Advisory Board

October 29, 1997 - 9 a.m. -- Open Meeting
A. H. Smith Agricultural Center, 595 Laurel Grove Road, Winchester, Virginia.

A quarterly meeting to discuss committee reports and other regular 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 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) 786-0481.

STATE ADVISORY BOARD ON AIR POLLUTION

October 1, 1997 - Noon -- Open Meeting
Ramada Plaza Resort Oceanfront, Virginia Beach, Virginia.

The 31st annual meeting of the board to include presentations by Thomas L. Hopkins, Director of the Department of Environmental Quality, and Mark Kilduff, Deputy Director of the Virginia Economic Development

Partnership, followed by recommendations to the board on environmental partnerships, multi-media permitting, and publicizing proposed new air quality standards.

Contact: Kathy Frahm, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23240-0009, telephone (804) 698-4376.

ALCOHOLIC BEVERAGE CONTROL BOARD

September 15, 1997 - 9:30 a.m. -- Open Meeting
September 29, 1997 - 9:30 a.m. -- Open Meeting
October 15, 1997 - 9:30 a.m. -- Open Meeting
October 27, 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 of staff members. Other matters have not been determined.

Contact: W. Curtis Coleburn, Secretary to the Board, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4409 or FAX (804) 213-4442.

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

Board for Interior Designers

NOTE: CHANGE IN MEETING DATE

† **September 23, 1997 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ♿

Board for Land Surveyors

September 18, 1997 - 9 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ♿

A meeting to conduct board business. Persons desiring to participate in the meeting and requiring special

accommodations or interpreter services should contact the 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 23230-4917, telephone (804) 367-8514 or (804) 367-9753/TDD ♿

† **September 19, 1997 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5W, Richmond, Virginia. ♿

Members of the board and invited subject matter experts will conduct an exam workshop for the Virginia Land Surveyor "A" Examination which will be administered October 31, 1997. A public comment period will be held at the beginning of the workshop. After the public comment period, the workshop will be conducted in closed executive session under authority of § 2.1-344 A 11 of the Code of Virginia due to the confidential nature of the examination. The public will not be admitted to the closed executive session.

Contact: George O. Bridewell, Examination Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8572 or (804) 367-9753/TDD ♿

VIRGINIA BOARD FOR ASBESTOS AND LEAD

September 25, 1997 - 1 p.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5 East, Richmond, Virginia. ♿

A subcommittee meeting of the board to develop language for 18 VAC 15-20-60, Virginia Asbestos Licensing Regulations. 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 ♿

October 15, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Conference Room 5 East, Richmond, Virginia. ♿

A meeting to conduct routine business and review draft amendments prepared by board staff to the Virginia

Calendar of Events

Asbestos Licensing Regulations and the Virginia Lead-Based Paint Activities Regulations. The board will also consider adopting the regulations as proposed regulations for publication and public comment. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: David E. Dick, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8595 or (804) 367-9753/TDD ☎

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

† **November 13, 1997 - 9 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.

November 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 Board of Audiology and Speech-Language Pathology intends to consider amending regulations entitled: **18 VAC 30-20-10 et seq. Regulations Governing the Practice of Audiology and Speech-Language Pathology.** The purpose of the proposed amendments is to amend the regulations pursuant to Executive Order 15 (94) for simplification and clarification of requirements and to remove the language which is unnecessary or duplicative.

Statutory Authority: §§ 54.1-2400 and 54.1-2600 et seq. of the Code of Virginia.

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) 662-9907 or FAX (804) 662-9943.

BOARD FOR BARBERS

October 6, 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 10 days 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 ☎

CHARITABLE GAMING COMMISSION

September 17, 1997 - 7 p.m. -- Public Hearing
Northern Virginia Community College, Annandale Campus-Forum, 8333 Little River Turnpike, Annandale, Virginia.

September 23, 1997 - 7 p.m. -- Public Hearing
John Tyler Community College, 13101 Jefferson Davis Highway, Nicholls Center, Chester, Virginia.

October 17, 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 Charitable Gaming Commission intends to adopt regulations entitled: **11 VAC 15-12-10 et seq. Public Participation Guidelines.** The purpose of the proposed action is to promulgate public participation guidelines for the formulation of charitable gaming regulations.

Statutory Authority: §§ 9-6.14:7.1 and 18.2-340.18 of the Code of Virginia.

Contact: James Ingraham, Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

September 17, 1997 - 7 p.m. -- Public Hearing
Northern Virginia Community College, Annandale Campus-Forum, 8333 Little River Turnpike, Annandale, Virginia.

September 23, 1997 - 7 p.m. -- Public Hearing
John Tyler Community College, 13101 Jefferson Davis Highway, Nichols Center, Chester, Virginia.

October 17, 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 Charitable Gaming Commission intends to adopt regulations entitled: **11 VAC 15-22-10 et seq. Charitable Gaming Regulations.** The purpose of the proposed action is to promulgate regulations for the operation of charitable gaming activities in Virginia.

Statutory Authority: §§ 18.2-340.15, 18.2-340.18, 18.2-340.19, and 18.2-340.30 of the Code of Virginia.

Contact: James Ingraham, Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

September 17, 1997 - 7 p.m. -- Public Hearing
Northern Virginia Community College, Annandale Campus-Forum, 8333 Little River Turnpike, Annandale, Virginia.

September 23, 1997 - 7 p.m. -- Public Hearing
John Tyler Community College, 13101 Jefferson Davis Highway, Nichols Center, Chester, Virginia.

October 17, 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 Charitable Gaming Commission intends to **adopt** regulations entitled: **11 VAC 15-31-10 et seq. Supplier Regulations.** The purpose of the proposed action is to promulgate regulations for vendors selling charitable gaming equipment and supplies in Virginia.

Statutory Authority: §§ 18.2-340.15 and 18.2-340.18 of the Code of Virginia.

Contact: James Ingraham, Administration Manager, Charitable Gaming Commission, P.O. Box 756, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

† **September 23, 1997 - 5:30 p.m.** -- Open Meeting
John Tyler Community College, 13101 Jefferson Davis Highway, Nichols Center, Chester, Virginia.

A general meeting of the commission.

Contact: Donna Pruden, Administrative Staff Assistant, Charitable Gaming Commission, Monroe Bldg., 101 N. 14th St., 17th Floor, Richmond, VA 23218, telephone (804) 786-0238 or FAX (804) 786-1079.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 15, 1997 - 1 p.m. -- Open Meeting
Virginia Beach Municipal Center, 2449 Princess Anne Road, Conference Room 217/218, Virginia Beach, Virginia. ♿

A meeting to conduct general business, including a review of local Chesapeake Bay Preservation Area programs. Public comments will be taken in the meeting. The board will also attend an educational trip on a private boat. The trip will begin at 10 a.m. leaving the KoKoamos Marina. No business will be conducted during the educational trip.

Contact: Carolyn J. Elliott, Executive Secretary, Chesapeake Bay Local Assistance Dept., 805 E. Broad St., Suite 701, Richmond, VA 23219, telephone (804) 225-3440, FAX (804) 225-3447/TDD or toll-free 1-800-243-7229 ☎

VIRGINIA STATE CHILD FATALITY REVIEW TEAM

† **September 24, 1997 - 10 a.m.** -- Open Meeting
Tyler Building, 1300 East Main Street, 3rd Floor Conference Room, Richmond, Virginia. ♿

A meeting to discuss the status of ongoing studies and update the team on administrative matters. The second part of the meeting will be closed for confidential case review.

Contact: Suzanne J. Keller, Coordinator, Virginia State Child Fatality Review Team, 9 N. 14th St., Richmond, VA 23219, telephone (804) 786-1048, FAX (804) 371-8595, or toll-free 1-800-447-1706.

COMPENSATION BOARD

September 25, 1997 - 11 a.m. -- Open Meeting
Ninth Street Office Building, 202 North Ninth Street, 9th Floor, Room 913/913A, Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A routine business meeting.

Contact: Bruce W. Haynes, Executive Secretary, P.O. Box 710, Richmond, VA 23218-0710, telephone (804) 786-0786, FAX (804) 371-0235, or (804) 786-0786/TDD ☎

BOARD OF CONSERVATION AND RECREATION

October 22, 1997 - Public comments may be submitted until 5 p.m. on this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Board of Conservation and Recreation intends to **amend** regulations entitled: **4 VAC 3-20-10 et seq. Stormwater Management Regulations.** The purpose of the proposed amendments is to protect life and property against the degradation of land and water resources in the form of water pollution, stream channel erosion, depletion of groundwater resources, and more frequent local flooding--impacts that adversely affect fish, aquatic life, recreation, shipping, property values and other uses of lands and waters. Amendments provide consistent criteria for state agency construction projects and greater flexibility for local government adoption of stormwater management ordinances.

Statutory Authority: § 10.1-603.4 of the Code of Virginia.

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 ☎

Calendar of Events

DEPARTMENT OF CONSERVATION AND RECREATION

September 29, 1997 - 7 p.m. -- Open Meeting
Princess Anne Recreation Center, 1400 Ferrell Parkway, Room 3, Virginia Beach, Virginia.☎ (Interpreter 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 (DCR), in coordination with other state agencies and local stakeholders, to perform a study of the effects of nonpoint source (NPS) pollution on the Back Bay and to determine the strategies and costs of implementing measures to improve the water quality of the Back Bay. As one component of the study, DCR will conduct a meeting open to the public to summarize the contents of the agency's draft study report and receive comments from all interested parties. Written comments will be accepted if received by September 1, 1997. Direct written comments to DCR Back Bay Study, Mark Meador, 203 Governor Street, Suite 206, Richmond, VA 23219.

Contact: Mark Meador, Field Operations Coordinator, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3999 or FAX (804) 787-1798.

† **October 6, 1997 - 7 p.m.** -- Open Meeting
Cumberland County Courthouse, U.S. Route 60, Main Courtroom, Cumberland, Virginia.☎

As part of the Bear Creek Lake Watershed Study, a public awareness meeting is being held to provide an overview of the watershed research and to provide a summary of recommended solutions and costs associated with the issues of sediment removal, land use and long-term watershed protection. Public comment is encouraged.

Contact: Scott Shanklin, Park Manager, Bear Creek Lake State Park, Route 1, Box 253, Cumberland, VA 23040-9518, telephone (804) 492-4410 or FAX (804) 492-9523.

Virginia Cave Board

† **September 20, 1997 - 1 p.m.** -- Open Meeting
Endless Caverns, New Market, Virginia.

A regularly scheduled meeting. A variety of issues relating to cave and karst conservation will be discussed. A public comment period will be held.

Contact: Lawrence R. Smith, Natural Area Protection Manager, Department of Conservation and Recreation, Division of Natural Heritage, 1500 E. Main St., Suite 312, Richmond, VA 23219, telephone (804) 786-7951, FAX (804) 371-2674, or (804) 786-2121/TDD ☎

Board on Conservation and Development of Public Beaches

September 22, 1997 - 10 a.m. -- Open Meeting
Marine Resources Commission, 2600 Washington Avenue, Meeting Room, Newport News, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting (i) to discuss proposals from localities requesting matching grant funds, (ii) to review the progress on Senate Joint Resolution 338 (1997) regarding the value of public beaches study, and (iii) to receive public comments about public beaches or the activities of the board.

Contact: Carlton Lee Hill, Staff Advisor, Department of Conservation and Recreation, 203 Governor St., Suite 206, Richmond, VA 23219, telephone (804) 786-3998 or FAX (804) 786-1798.

Fall River Renaissance Committee

September 17, 1997 - 10 a.m. -- Open Meeting
October 15, 1997 - 10 a.m. -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, 2nd Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to plan the campaign for the second Fall River Renaissance to be held from September 20 to October 20, 1997. The campaign will promote and recognize voluntary acts of stewardship to improve and conserve water quality in Virginia.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 East Main St., Richmond, VA 23219, telephone (804) 698-4488.

BOARD FOR CONTRACTORS

† **September 15, 1997 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Room 5 West, Richmond, Virginia.☎

A meeting of the committee studying bonding requirements and other issues which may come before the board. The department fully complies with the Americans with Disabilities Act. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact Mr. Geralde Morgan.

Contact: Geralde W. Morgan, Senior Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

† **October 8, 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 ♿

Disciplinary Committee

† **October 22, 1997 - 9 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Richmond, Virginia. ♿

A meeting to receive board member reports and summaries from informal fact-finding conferences held pursuant to the Administrative Process Act, and to review consent order offers in lieu of further disciplinary proceedings. 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 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

† **September 23, 1997 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 4 W, Richmond,
Virginia. ♿

A 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

September 19, 1997 - 1 p.m. -- Open Meeting
Coffeewood Correctional Center, 12352 Coffeewood Drive,
Mitchells, 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.

CRIMINAL JUSTICE SERVICES BOARD

October 14, 1997 - 10 a.m. -- Public Hearing
Virginia Military Institute, Jackson Memorial Hall, Lexington,
Virginia.

November 5, 1997 - 10 a.m. -- Public Hearing
General Assembly Building, 910 Capitol Square, House
Room D, Richmond, Virginia. ♿

November 1, 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 20-20-10 et seq. Rules Relating to Compulsory Minimum Training Standards for Law-Enforcement Officers.** The proposed amendments relate to approval authority for performance outcomes, hours, and categories of training by the Criminal Justice Services Board and the training objectives, criteria, and lesson plan guides by the Committee on Training of the Criminal Justice Services Board. Hours and categories of training are updated. Performance outcomes are incorporated by reference.

Statutory Authority: § 9-170 of the Code of Virginia.

Public comments may be submitted until November 1, 1997, to Lex Eckenrode, Department of Criminal Justice Services, 805 East Broad Street, Richmond, VA 23219.

Contact: George Gotschalk, Section Chief, Standards and Certification, Department of Criminal Justice Services, 805 E. Broad St., Richmond, VA 23219, telephone (804) 786-8001 or FAX (804) 371-8981.

Calendar of Events

DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING

Advisory Board

† **November 5, 1997 - 10 a.m.** -- Open Meeting
Koger Center, 1602 Rolling Hills Drive, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request).

A quarterly meeting of the advisory board. Public comment will be received with advance notice.

Contact: Beverly Dickinson, Executive Secretary, Department for the Deaf and Hard-of-Hearing, 1602 Rolling Hills Dr., Ratcliffe Bldg., Suite 203, Richmond, VA 23229-5012, telephone (804) 662-9705 (V/TTY) or toll-free 1-800-552-7917 (V/TTY).

BOARD OF DENTISTRY

September 19, 1997 - 9 a.m. -- Open Meeting
Holiday Inn Washington Dulles, 1000 Sully Road, Dulles, Virginia. ☎ (Interpreter for the deaf provided upon request)

A formal administrative hearing panel will hear disciplinary cases. This is a public meeting; however, no public comment will be taken.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

NOTE: CHANGE IN MEETING TIME

September 25, 1997 - 2 p.m. -- Open Meeting
September 26, 1997 - 9 a.m. -- Open Meeting
Hotel Roanoke, 110 Shenandoah Avenue, Blue Ridge Room, Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

A business meeting to discuss committee reports, upcoming meetings, and general requests made to the board and to review consent orders. Business not completed on September 25 will be continued on September 26. Public comment will be received at the beginning of the meeting.

Contact: Marcia J. Miller, Executive Director, Board of Dentistry, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9906 or (804) 662-7197/TDD ☎

Advertising Committee

September 25, 1997 - 1 p.m. -- Open Meeting
Hotel Roanoke, 110 Shenandoah Avenue, Blue Ridge Room, Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to discuss guidelines on disciplinary cases. Public comment will be taken at the beginning of the meeting.

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 ☎

Legislative/Regulatory Committee

September 26, 1997 - 9 a.m. -- Open Meeting
Hotel Roanoke, 110 Shenandoah Avenue, Blue Ridge Room, Roanoke, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to begin discussions on promulgating regulations according to the recommendations of the review conducted pursuant to Executive Order 15 (94). Public comment will be taken at the beginning of the meeting.

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 ☎

DISABILITY SERVICES COUNCIL

October 14, 1997 - 11 a.m. -- Open Meeting
Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review the FY 1998 Rehabilitative Services Incentive Fund (RSIF) Competitive Proposals for approval and RSIF guidelines.

Contact: Kathryn Hayfield, Chief of Staff, Disability Services Council, 8004 Franklin Farms Dr., Richmond, VA 23288, telephone (804) 662-7134/Voice/TTY, toll-free 1-800-552-5019, 1-800-464-9950/TDD ☎

BOARD OF EDUCATION

September 17, 1997 - 7 p.m. -- Public Hearing
Francis C. Hammond Middle School, 4646 Seminary Road East, Alexandria, Virginia.

September 17, 1997 - 7 p.m. -- Public Hearing
Toano Middle School, 7817 Richmond Road, Toano, Virginia.

September 17, 1997 - 7 p.m. -- Public Hearing
Lynchburg College, 1501 Lakeside Drive, Hall Campus Center, Lynchburg, Virginia.

October 31, 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 Education

intends to repeal regulations entitled: 8 VAC 20-20-10 et seq. Regulations Governing the Licensure of School Personnel and adopt regulations entitled: 8 VAC 20-21-10 et seq. Licensure Regulations for School Personnel. The purpose of the proposed regulation is to maintain standards of professional competence for teachers and other school personnel.

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

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

September 17, 1997 - 7 p.m. -- Public Hearing
Francis C. Hammond Middle School, 4646 Seminary Road East, Alexandria, Virginia.

September 17, 1997 - 7 p.m. -- Public Hearing
Toano Middle School, 7817 Richmond Road, Toano, Virginia.

September 17, 1997 - 7 p.m. -- Public Hearing
Lynchburg College, 1501 Lakeside Drive, Hall Campus Center, Lynchburg, Virginia.

October 31, 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 Education intends to adopt regulations entitled: 8 VAC 20-25-10 et seq. Technology Standards for Instructional Personnel. The purpose of the proposed regulation is to ensure that instructional personnel in Virginia have mastered and demonstrated competency in technology. The proposed regulation identifies eight standards based on Virginia's revised Standards of Learning.

Statutory Authority: § 22.1-16 of the Code of Virginia.

Contact: Thomas A. Elliott, Assistant Superintendent for Compliance, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2748, FAX (804) 225-3831, toll-free 1-800-292-3820 or 1-800-422-1098/TDD

DEPARTMENT OF ENVIRONMENTAL QUALITY

Virginia Ground Water Protection Steering Committee

September 16, 1997 - 9 a.m. -- Open Meeting
Department of Environmental Quality, 629 East Main Street, Richmond, Virginia.

A general business 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.

FAMILY AND CHILDREN'S TRUST FUND

September 19, 1997 - 10 a.m. -- Open Meeting
Department of Social Services, 730 East Broad Street, Richmond, Virginia.

A regular monthly meeting of the Board of Directors. Contact the trust fund for more information or for a copy of the agenda.

Contact: Margaret Ross Schultze, Executive Director, Family and Children's Trust Fund, 730 E. Broad St., Richmond, VA 23219, telephone (804) 692-1823.

VIRGINIA FIRE SERVICES BOARD

October 24, 1997 - 9 a.m. -- Open Meeting
Massanutten, Harrisonburg, Virginia.

A business meeting to discuss training and policies. The hearing is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire Prevention and Control Committee

October 23, 1997 - 1 p.m. -- Open Meeting
Massanutten, Harrisonburg, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Fire/EMS Education and Training Committee

October 23, 1997 - 8:30 a.m. -- Open Meeting
Massanutten, Harrisonburg, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for input and comments.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

Calendar of Events

Legislative/Liaison Committee

October 23, 1997 - 10 a.m. -- Open Meeting
Massanutten, Harrisonburg, Virginia.

A meeting to discuss fire training and policies. The meeting is open to the public for comments and input.

Contact: Michael Cline, Acting Executive Director, Department of Fire Programs, James Monroe Bldg., 101 N. 14th St., 18th Floor, Richmond, VA 23219, telephone (804) 371-0220.

BOARD OF GAME AND INLAND FISHERIES

† **October 23, 1997 - 9 a.m.** -- Open Meeting
† **October 24, 1997 - 9 a.m.** -- Open Meeting
4000 West Broad Street, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to address a regulation amendment proposed at the August 21, 1997, meeting to add tungsten-iron shot as a permissible nontoxic shot for use in waterfowl hunting if such shot is permissible under federal migratory waterfowl 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, and the board will determine whether the proposed regulation amendment will be adopted as a final regulation. 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 August 21, 1997, board meeting as necessary for the proper management of wildlife resources. The board will review proposals for legislation for the 1998 Session of the General Assembly. The board may also address permitting; staff may recommend and the board may propose regulations or amendments to regulations pertaining to permitting. The board may hold an executive session before the public session begins on October 23. If the board completes its entire agenda on October 23, it may not convene on October 24.

Contact: Phil Smith, Policy Analyst, Department of Game and Inland Fisheries, 4010 W. Broad St., Richmond, VA 23230, telephone (804) 367-8341 or FAX (804) 367-2427.

DEPARTMENT OF GENERAL SERVICES

Design-Build/Construction Management Review Board

† **September 19, 1997 - 10 a.m.** -- Open Meeting
† **October 17, 1997 - 10 a.m.** -- Open Meeting
† **November 21, 1997 - 10 a.m.** -- Open Meeting
The Library of Virginia, 800 East Broad Street, Richmond, Virginia.

A meeting to review any requests submitted for review by the board for the use of a Design-Build or Construction Management type of contract.

Contact: Nathan I. Broocke, Director, Division of Engineering and Buildings, Department of General Services, 805 E. Broad St., Room 101, Richmond, VA 23219, telephone (804) 786-3263 or (804) 786-6152/TDD

GEORGE MASON UNIVERSITY

Board of Visitors

September 24, 1997 - 2 p.m. -- Open Meeting
George Mason University, Prince William Campus, Building I, Manassas, Virginia.

A meeting to hear reports of the standing committees of the board and to act on any recommendations presented by the standing committees. An agenda will be available seven days prior to the board meeting for those individuals or organizations who request it.

Contact: Larry Czarda, Chief of Staff, or Carole Richardson, Administrative Staff Assistant, Office of the President, George Mason University, Fairfax, VA 22030-4444, telephone (703) 993-8700.

STATE HAZARDOUS MATERIALS TRAINING ADVISORY COMMITTEE

September 24, 1997 - 1 p.m. -- Open Meeting
Cavalier Hotel, 42nd Street at Oceanfront, Virginia Beach, 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.

STATE BOARD OF HEALTH

October 20, 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 5-90-10 et seq. Regulations for Disease Reporting and Control.** The purpose of the proposed amendments is to mandate the testing of gamete donors for HIV and the rejection of donors who test HIV positive and to establish a standard protocol for HIV testing for gamete donors.

Statutory Authority: §§ 32.1-12, 32.1-45.3, and 54.1-2971.1 of the Code of Virginia.

Contact: Casey W. Riley, Director, Division of STD/AIDS, Department of Health, P.O. Box 2448, Room 112, Richmond, VA 23218, telephone (804) 786-6267 or FAX (804) 225-3517.

November 14, 1997 - Public comments may be submitted until 5 p.m. on 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 5-220-10 et seq. Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations.** The purpose of the proposed amendments is to conform to recent legislation enacted to decrease regulatory involvement with projects to improve or increase services through capital expenditures at medical care facilities.

Statutory Authority: §§ 32.1-12 and 32.1-102.2 of the Code of Virginia.

Public comments may be submitted until November 14, 1997, to Nancy R. Hofheimer, Director, Center for Quality Health Care Services, Department of Health, 3600 West Broad Street, Suite 216, Richmond, VA 23230.

Contact: Paul E. Parker, Director, Certificate of Public Need, Center for Quality Health Care Services, Department of Health, 3600 W. Broad St., Suite 216, Richmond, VA 23230, telephone (804) 367-2126 or FAX (804) 367-2149.

Subcommittee on Teen Pregnancy Prevention

September 17, 1997 - 9:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, 6th Floor, Conference Room, Richmond, Virginia. ♿

A regular meeting with two program reports. There will be a public comment period regarding the Virginia Abstinence Education Initiative under Title V of MCH Block Grant.

Contact: Stephen Conley, Director, Adolescent Health Program, Department of Health, P.O. Box 2448, 1500 E. Main St., Richmond, VA 23218, telephone (804) 371-4098, FAX (804) 371-6031 or toll-free 1-800-828-1120/TDD ♿

BOARD OF HEALTH PROFESSIONS

September 16, 1997 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A full board meeting to receive reports from the following committees: Ad Hoc Committee on Criteria; Regulatory

Research Committee; Practitioner Self-Referral Committee; and Nominating Committee. The board will also conduct elections based on the slate from the Nominating Committee and any nominations made from the floor. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ♿

Ad Hoc Committee on Criteria

September 16, 1997 - 11 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to formulate final recommendations for presentation to the full board regarding appropriate criteria for the regulation of health care providers. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ♿

Nominating Committee

September 16, 1997 - 8:30 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to develop a slate of candidates for election to the board's chair, vice-chair and member-at-large seats. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Board of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ♿

Practitioner Self-Referral Committee

September 16, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ♿
(Interpreter for the deaf provided upon request)

A meeting to review committee activities since the April board meeting and to receive a staff report on practitioner self-referral activities. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor,

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Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

Regulatory Research Committee

September 16, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to review comments on the draft report on the committee's study of trends in the funeral industry pursuant to House Bill 553 (1997) and to review final recommendations for presentation to the full board. Brief public comment will be received at the beginning of the meeting.

Contact: Robert A. Nebiker, Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9919 or (804) 662-7197/TDD ☎

DEPARTMENT OF HISTORIC RESOURCES

State Review Board and Historic Resources Board

September 17, 1997 - 10 a.m. -- Open Meeting
Roanoke City Municipal Building, 215 Church Avenue, S.W., Roanoke, Virginia. ☎

A quarterly meeting to consider proposed and completed reports for the Virginia Landmarks Register and National Register of Historic Places easements and highway markers.

Contact: Marc C. Wagner, National Register Manager, Department of Historic Resources, 221 Governor St., Richmond, VA 23219, telephone (804) 786-3143, FAX (804) 225-4261 or (804) 786-1934/TDD ☎

HOPEWELL INDUSTRIAL SAFETY COUNCIL

October 7, 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.

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† **September 20, 1997 - 5 p.m.** -- Open Meeting
† **September 21, 1997 -** Open Meeting
† **September 22, 1997 -** Open Meeting
Fort Magruder Inn and Conference Center, Route 60 East, Williamsburg, Virginia. ☎

A retreat of the Board of Commissioners from September 20 through September 22, and its regular meeting on September 22. The board will consider and discuss various policies and issues relating to the authority's programs and operations and will meet with the Board of Housing and Community Development to consider and discuss matters of mutual interest. On September 22 the board will (i) review and, if appropriate, approve the minutes from the prior monthly meeting; (ii) consider for approval and ratification mortgage loan commitments under its various programs; (iii) review the authority's operations for the prior month; and (iv) consider such other matters and take such other actions as it may deem appropriate. Various committees of the Board of Commissioners may also meet before or after the regular meeting and consider matters within their purview. The planned agenda of the retreat and meeting will be available at the offices of the authority one week prior to the date of the meeting.

Contact: J. Judson McKellar, Jr., General Counsel, Virginia Housing Development Authority, 601 S. Belvidere Street, Richmond, VA 23220, telephone (804) 343-5540.

COUNCIL ON INFORMATION MANAGEMENT

† **September 19, 1997 - 10 a.m.** -- Open Meeting
Science Museum of Virginia, 2500 West Broad Street, 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 ☎

Task Force on Land Records Management

† **September 23, 1997 - 10 a.m.** -- Open Meeting
Washington Building, 1100 Bank Street, Suite 901, Richmond, Virginia. ☎

A meeting to develop plans to upgrade land records management technology and to prepare to report to the 1998 General Assembly.

Contact: Linda Hening, Administrative Assistant, Council on Information Management, Washington Bldg., 1100 Bank St., Suite 901, Richmond, VA 23219, telephone (804) 225-3622 or toll-free 1-800-828-1120/TDD ☎

STATE BOARD OF JUVENILE JUSTICE

† October 8, 1997 - 9 a.m. -- Open Meeting

† November 12, 1997 - 9 a.m. -- Open Meeting

700 Centre Building, 700 East Franklin Street, 4th Floor, Richmond, Virginia. ☎

The Secure Program Committee and the Nonsecure Program Committee will meet at 9 a.m. The full board will meet at 10 a.m. to consider certification issues, matters relating to regulations promulgated by the board, policy issues and other matters brought before it.

Contact: Donald R. Carignan, Policy Coordinator, Department of Juvenile Justice, 700 E. Franklin St., P.O. Box 1110, Richmond, VA 23219, telephone (804) 371-0743 or FAX (804) 371-0773.

DEPARTMENT OF LABOR AND INDUSTRY

Virginia Apprenticeship Council

September 18, 1997 - 10 a.m. -- Open Meeting

Valley Vocational Technical Center, Highway 250, Fishersville, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular quarterly meeting.

Contact: Fred T. Yontz, Apprenticeship Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-0295, FAX (804) 786-8418 or (804) 786-2376/TDD ☎

† October 1, 1997 - 9:30 a.m. -- Open Meeting

Department of Labor and Industry, 13 South 13th Street, 4th Floor Conference Room, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A subcommittee of the council will meet.

Contact: Fred T. Yontz, Apprenticeship Program Manager, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 371-0295, FAX (804) 786-8418 or (804) 786-2376/TDD ☎

Safety and Health Codes Board

September 29, 1997 - 10 a.m. -- Open Meeting

General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting with tentative agenda items to include:

1. Emergency regulation, Boiler and Pressure Vessel Regulations, 16 VAC 25-50-60.
2. Abatement Verification, Part 1903.
3. Longshoring and Marine Terminals, Final Rules, Parts 1910, 1917 and 1918.

4. Air Contaminants, General Industry; Corrections, 16 VAC 25-90-1910.1000.

5. Regulatory review.

Contact: Regina P. Cobb, Agency Management Analyst Senior, Department of Labor and Industry, Powers-Taylor Bldg., 13 S. 13th St., Richmond, VA 23219, telephone (804) 786-0610, FAX (804) 786-8418, or (804) 786-2376/TDD ☎

STATE LAND EVALUATION ADVISORY COUNCIL

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.

VIRGINIA MANUFACTURED HOUSING BOARD

† September 24, 1997 - 10 a.m. -- Open Meeting

Department of Housing and Community Development, The Jackson Center, 501 North 2nd Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A monthly meeting of the board.

Contact: Curtis L. McIver, Associate Director, Department of Housing and Community Development, Manufactured Housing Office, The Jackson Center, 501 N. 2nd St., Richmond, VA 23219, telephone (804) 371-7160 or (804) 371-7089/TDD ☎

MARINE RESOURCES COMMISSION

† September 23, 1997 - 9:30 a.m. -- Open Meeting

† October 28, 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

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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

MATERNAL AND CHILD HEALTH COUNCIL

September 17, 1997 - 1 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, Speaker's Conference Room, 6th Floor, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to focus on improving the health of the Commonwealth's mothers and children by promoting and improving programs and service delivery systems related to maternal and child health, including prenatal care, school health, and teenage pregnancy.

Contact: Janice M. Hicks, Policy Analyst, Department of Health, Office of Family Health Services, 1500 E. Main St., Room 104, Richmond, VA 23219, telephone (804) 371-0478 or FAX (804) 692-0184.

BOARD OF MEDICAL ASSISTANCE SERVICES

September 16, 1997 - 10 a.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Richmond, Virginia.

The board will discuss matters of policy relating to the Medicaid program.

Contact: Cynthia Klisz Morton, Board Liaison, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8099.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

October 17, 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 amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services and 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care.** The purpose of the proposed amendments is to make permanent the agency's temporary requirements regarding the prior authorization of all inpatient hospital services.

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

Public comments may be submitted until October 17, 1997, to Cindy Tyler, Division of Client Services, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta 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.

October 17, 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 amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care, 12 VAC 30-120-10 et seq. Waivered Services, and 12 VAC 30-130-10 et seq. Amount Duration and Scope of Selected Services.** The purpose of the proposed amendments is to recommend changes to the permanent regulations controlling rehabilitation services, specifically community mental retardation services. The expansion of these services creates a payment source for the local community service boards in support of a wider range of mental services to Medicaid eligible persons, which draws on federal funding.

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

Public comments may be submitted until October 17, 1997, to Ann Cook, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 371-4981.

October 17, 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 amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care, and 12 VAC 30130-10 et seq. Amount,**

Duration and Scope of Selected Services. The purpose of this proposal is to recommend changes to the permanent regulations controlling rehabilitation services, i.e., community mental health and mental retardation services. The expansion of these services creates a payment source for the local community services boards, in support of a wider range of mental health services to Medicaid eligible persons, which draws on federal funding thereby reducing the demand for General Fund and local dollars. The purpose of this proposed regulation is to make permanent the provisions of the emergency regulations while also addressing issues raised by the Health Care Financing Administration in response to DMAS' State Plan amendment. A description of the expansion services follows:

1. Mental Health Intensive Community Treatment provides outpatient mental health services outside the traditional clinic setting. It is designed to bring services to individuals who will not or cannot be served in the clinic setting.

2. Mental Health Crisis Stabilization Services provide direct mental health care to individuals experiencing acute crisis of a psychiatric nature that may jeopardize their current community living situation. It will provide less medical mental health services independently of or in conjunction with Intensive Community Treatment.

3. Mental Health Support Services provide training and support services to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment.

Used singly or as a package, these services will provide comprehensive treatment and support services to persons with serious and persistent mental illness.

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

Public comments may be submitted until October 17, 1997, to Ann Cook, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 371-4981.

October 17, 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 amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High**

Quality 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 amendments is to establish policies for Medicaid coverage of licensed clinical psychologists, licensed clinical social workers and licensed professional counselors.

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

Public comments may be submitted until October 17, 1997, to Sally Rice, Program Operations, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta 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.

October 17, 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 amend regulations entitled: **12 VAC 30-50-10 et seq. Amount, Duration, and Scope of Medical and Remedial Care and Services, 12 VAC 30-60-10 et seq. Standards Established and Methods Used to Assure High Quality Care, and 12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services.** The purpose of the proposed amendments is to provide for substance abuse treatment for pregnant women.

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

Public comments may be submitted until October 17, 1997, to Ann Cook, Division of Policy and Budget, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219.

Contact: Victoria P. Simmons or Roberta Jonas, Regulatory Coordinators, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-7959 or FAX (804) 371-4981.

October 31, 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 amend regulations entitled: **12 VAC 30-130-10 et seq. Amount, Duration and Scope of Selected Services.** The purpose of the proposed amendments is to improve program operations through modification of the current regulations for the Client medical Management Program by restricting

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specific recipients and providers who have demonstrated habits of overutilization services at excessive costs to Medicaid.

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

Contact: Victoria P. Simmons or Roberta J. Jonas, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 371-8854 or FAX (804) 371-4981.

Virginia Medicaid Drug Utilization Review Board

September 18, 1997 - 2 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Board Room, Richmond, Virginia. ☎

A quarterly meeting to conduct routine business including the review and possible revision of the bylaws of the board.

Contact: Marianne R. Rollings, R.Ph., Pharmacy Services Unit, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 786-8056.

Pharmacy Liaison Committee

September 22, 1997 - 1 p.m. -- Open Meeting
Department of Medical Assistance Services, 600 East Broad Street, 13th Floor, Board Room, Richmond, Virginia. ☎

A meeting to conduct routine business and consider pharmacy issues relative to Medicaid and industry communication.

Contact: David Shepherd, R.Ph., Supervisor, Pharmacy Unit, Department of Medical Assistance Services, 600 E. Broad St., Richmond, VA 23219, telephone (804) 225-2773.

HJR 630 Special Task Force

September 17, 1997 - 8:30 a.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎

A meeting to study the effects of therapeutic interchange on the health care of Virginians. Therapeutic interchange is the use of chemically dissimilar pharmacological products as contrasted against generic substitution (use of the same chemically active ingredient made by different manufacturers).

Contact: David Shepherd, R.Ph., Pharmacy Supervisor, Pharmacy Unit, Division of Program Operations, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, VA 23219, telephone (804) 225-2773.

BOARD OF MEDICINE

EMG Task Force Subcommittee

September 19, 1997 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting of the subcommittee in open session to discuss the qualifications for performing EMGs on patients. The chairman will entertain public comments on agenda items for 15 minutes following adoption of the agenda.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

Informal Conference Committee

September 16, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, 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 ☎

Legislative Committee

September 26, 1997 - 1 p.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Board Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to (i) discuss legislative issues related to board activities and regulation, (ii) review any pending regulations pursuant to regulatory review or legislative action, and (iii) consider any other information that may come before the committee. The committee will entertain public comments during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD ☎

Advisory Committee on Physician Assistants

† **September 17, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Board Room 2, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to review public comments and make recommendations to the board regarding the regulatory review of 18 VAC 85-50-10 et seq. Regulations Governing the Practice of Physician Assistants, and such other issues which may be presented. The committee will entertain public comment during the first 15 minutes on agenda items.

Contact: Warren W. Koontz, M.D., Executive Director, Board of Medicine, 6606 W. Broad St., 4th Floor, Richmond, VA 23230-1717, telephone (804) 662-9960, FAX (804) 662-9943 or (804) 662-7197/TDD

DEPARTMENT OF MINES, MINERALS AND ENERGY

October 8, 1997 - 10 a.m. -- Public Hearing
Department of Mines, Minerals and Energy, Keen Mountain Office, Route 460, Keen Mountain, Virginia.

October 24, 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 Mines, Minerals and Energy intends to amend regulations entitled: **4 VAC 25-150-10 et seq. Virginia Gas and Oil Regulation.** The purpose of the proposed amendment is to oversee the permitting, operations, plugging, and site restoration of gas and oil exploration and development wells, gathering pipelines, and associated facilities.

Statutory Authority: §§ 45.1-361.27 and 45.1-161.3 of the Code of Virginia.

Contact: B. Thomas Fulmer, Division Director, Division of Gas and Oil, Department of Mines, Minerals and Energy, 230 Charwood Dr., P.O. Box 1416, Abingdon, VA 24212, telephone (540) 676-5423, FAX (540) 676-5459, or toll-free 1-800-828-1120 (VA Relay Center).

MOTOR VEHICLE DEALER BOARD

September 16, 1997 - 10 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general board business. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act. A tentative agenda will be provided upon request by

contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Advertising Committee

September 15, 1997 - 3 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Dealer Practices Committee


September 15, 1997 - 1:30 p.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Calendar of Events


Finance Committee

September 16, 1997 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.


Franchise Review and Advisory Committee

September 16, 1997 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, 7th Floor, Executive Conference Room, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.

Licensing Committee


September 15, 1997 - 10:30 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.


Transaction Recovery Fund Committee

September 15, 1997 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street, Room 702, Richmond, Virginia.  (Interpreter for the deaf provided upon request)

A meeting to conduct general business of the committee. 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. A tentative agenda will be provided upon request by contacting the board. A public comment period will be provided at the beginning of the meeting. Public comment will be subject to the board's guidelines for public comment.

Contact: Mary Beth Blevins, Administrative Assistant, Motor Vehicle Dealer Board, 2201 W. Broad St., Suite 104, Richmond, VA 23220, telephone (804) 367-1100 or FAX (804) 367-1053.


VIRGINIA MUSEUM OF FINE ARTS

September 18, 1997 - 12:30 p.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia. 

The first meeting of the season to receive reports from the director and staff, conduct budget review, and approve art acquisitions recommended by the Collections Committee. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Buildings and Grounds Committee

† **September 18, 1997 - 10 a.m.** -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Payne Room (Members' Suite), Richmond, Virginia. 

A meeting to review ongoing actions on capital outlay and maintenance reserve programs. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Communications and Marketing Committee

† September 18, 1997 - 10 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Auditorium, Richmond, Virginia.☎

A meeting to conduct market analysis of past, current, and upcoming exhibitions and projects. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Executive Committee

† October 7, 1997 - 8 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia.☎

A monthly briefing of current museum activities and upcoming events. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

Finance Committee

September 18, 1997 - 11 a.m. -- Open Meeting
Virginia Museum of Fine Arts, 2800 Grove Avenue, Conference Room, Richmond, Virginia.☎

A meeting to review the budget. Public comment will not be received.

Contact: Emily C. Robertson, Secretary of the Museum, Virginia Museum of Fine Arts, 2800 Grove Ave., Richmond, VA 23221-2466, telephone (804) 367-0553.

BOARD OF NURSING

† September 22, 1997 - 1 p.m. -- Open Meeting
† September 25, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A panel of the board will conduct formal hearings with licensees and certificate holders. 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 ☎

† September 23, 1997 - 9 a.m. -- Open Meeting
† September 24, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board to consider matters relating to the adoption of proposed amendments to its regulations, education programs, discipline of licensees, licensure by examination and other matters under the jurisdiction of the board. Public comment will be received during an open forum beginning at 11 a.m., Tuesday, September 23, 1997. On September 24, the board will conduct formal hearings beginning at 8:30 a.m. 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 ☎

Education Advisory Committee

† September 17, 1997 - 10 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 discuss education issues related to nursing and nurse aide education programs. 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 ☎

Education Special Conference Committee

† September 22, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Richmond, Virginia.☎ (Interpreter for the deaf provided upon request)

A meeting to review proposals and reports from nursing and nurse aide education programs and prepare recommendations for the board. 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 ☎

Calendar of Events

Special Conference Committee

† **September 22, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A meeting of members of the Board of Nursing to
conduct informal conferences with licensees and
certificate holders. 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

BOARDS OF NURSING AND MEDICINE

† **September 18, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia. (Interpreter for the deaf
provided upon request)

A Special Conference Committee composed of members
of the Joint Board of Nursing and Medicine and the
Board of Nursing will meet to conduct informal
conferences with licensees. 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

OLD DOMINION UNIVERSITY

Board of Visitors

† **September 18, 1997 - 3 p.m.** -- Open Meeting
Old Dominion University, Webb University Center, Norfolk,
Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting of the governing board of the
institution to discuss business of the university brought
forth as a result of meetings of its Academic Affairs,
Administration and Finance, Institutional Advancement
and Student Affairs Committees, and as determined by
the Rector and the President.

Contact: Donna W. Meeks, Secretary, Board of Visitors, Old
Dominion University, Norfolk, VA 23529, telephone (757)
683-3072, FAX (757) 683-5041, or e-mail
DMEEKS@ODU.EDU

BOARD OF PHARMACY

† **September 15, 1997 - 9 a.m.** -- Open Meeting
Department of Health Professions, 6606 West Broad Street,
5th Floor, Conference Room 4, Richmond, Virginia.

A working meeting of the Regulation Committee to
continue development of proposed regulations pursuant
to the Notice of Intended Regulatory Action published
March 17, 1997, to discuss policy options related to HJR
630, to discuss NTI drug legislation, and other general
business of the committee. No public comment will 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.

† **September 25, 1997 - 1 p.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street,
5th Floor, Richmond, Virginia.

November 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 Board of Pharmacy intends
to consider amending regulations entitled: **18 VAC 110-
20-10 et seq. Regulations Governing the Practice of
Pharmacy.** The purpose of the proposed amendments
is to amend the requirements on mechanical devices to
accommodate the utilization of automated dispensing
devices. Amendments address the loading, checking,
recordkeeping, and administration of drugs from these
devices and are intended to ensure drug safety and
efficacy.

Statutory Authority: § 54.1-2400 and Chapters 33 and 34 of
Title 54.1 of the Code of Virginia.

Contact: Elizabeth Scott Russell, R.Ph., Executive Director,
Board of Pharmacy, 6606 W. Broad St., 4th Floor, Richmond,
VA 23230-1717, telephone (804) 662-9911 or FAX (804)
662-9943.

† **September 26, 1997 - 8 a.m.** -- Open Meeting
Holiday Inn I-64 and West Broad, 6531 West Broad Street,
Conference Room A, Richmond, Virginia.

A working meeting to write new items for the law
examination. The meeting will be held in executive or
closed session pursuant to § 2.1-342 (9) of the Code of
Virginia. 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.

POLYGRAPH EXAMINERS ADVISORY BOARD

September 16, 1997 - 10 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎
(Interpreter for the deaf provided upon request)

A meeting to discuss regulatory review and other matters requiring board action. The Polygraph Examiners Licensing Examination will be administered to eligible polygraph examiner interns. A public comment period will be held at the beginning of the meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least 10 days prior to the meeting so that suitable arrangements can be made for appropriate accommodations. The department fully complies with the Americans with Disabilities Act. Contact the board for confirmation of meeting date and time.

Contact: Nancy Taylor Feldman, Assistant Director, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-8590 or (804) 367-9753/TDD ☎

BOARD OF LICENSED PROFESSIONAL COUNSELORS, MARRIAGE AND FAMILY THERAPISTS AND SUBSTANCE ABUSE TREATMENT PROFESSIONALS

September 26, 1997 - 9 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, Conference Room 1, Richmond, Virginia. ☎

A formal administrative hearing to be held pursuant to § 9-6.14:12 of the Code of Virginia. Public comment will not be received.

Contact: Evelyn Brown, Executive Director, Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9967 or FAX (804) 662-9943.

BOARD FOR PROFESSIONAL SOIL SCIENTISTS

† **October 30, 1997 - 10 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia. ☎

A regularly scheduled meeting of the board to address policy and procedural issues and other business matters which may require board action. The meeting is open to the public; however, a portion of the meeting may be discussed in executive session. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the department so that suitable arrangements can be made. The board fully complies with the Americans with Disabilities Act.

Contact: Gerald W. Morgan, Senior Administrator, Department of Professional and Occupational Regulation, 3600 W. Broad St., Richmond, VA 23230-4917, telephone (804) 367-2785 or (804) 367-9753/TDD ☎

BOARD OF PSYCHOLOGY

September 23, 1997 - 10 a.m. -- Open Meeting
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 1, Richmond, Virginia. ☎

A regular meeting to discuss general board business, establish meeting dates for 1998, and make committee assignments. Proposed amendments to the Regulations Governing the Practice of Psychology pursuant to Executive Order 15 (94) will be adopted. Public comment will be received at the beginning of the meeting.

Contact: Janet Delorme, Deputy Executive Director, Department of Health Professions, 6606 W. Broad St., 4th Floor, Richmond, VA 23230, telephone (804) 662-9575, FAX (804) 662-9943, or (804) 662-7197/TDD ☎

† **October 23, 1997 - 10 a.m.** -- Public Hearing
Department of Health Professions, 6606 West Broad Street, 5th Floor, Conference Room 2, Richmond, Virginia.

November 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 Board of Psychology intends to consider amending regulations entitled: **18 VAC 125-20-10 et seq. Regulations Governing the Practice of Psychology**. The purpose of the proposed amendments is to increase fees for licensure renewal in compliance with § 54.1-113 of the Code of Virginia which requires that the board collect fees sufficient to cover the expenses of administering the licensure program.

Statutory Authority: § 54.1-2400 and Chapter 36 of Title 54.1 of the Code of Virginia.

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

VIRGINIA RACING COMMISSION

September 17, 1997 - 9:30 a.m. -- Public Hearing
Tyler Building, 1300 East Main Street, Richmond, Virginia.

October 17, 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

Calendar of Events

intends to amend regulations entitled: **11 VAC 10-130-10 et seq. Virginia Breeders Fund**. The purpose of the amendment is to establish the operating procedures for the distribution of awards and incentives from the Virginia Breeders Fund to horse owners and breeders of racehorses.

Statutory Authority: § 59.1-369 of the Code of Virginia.

Contact: William H. Anderson, Policy Analyst, Virginia Racing Commission, 10700 Horsemen's Rd., New Kent, VA 23124, telephone (804) 966-4200.

REAL ESTATE BOARD

September 18, 1997 - 9 a.m. -- Open Meeting
Hotel Roanoke, 110 Shenandoah Avenue, Pocahontas Room, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A general business meeting. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks 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) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TDD

Education Committee

September 18, 1997 - 8 a.m. -- Open Meeting
Hotel Roanoke, 110 Shenandoah Avenue, Pocahontas Room, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the committee. Persons desiring to participate in the meeting and requiring special accommodations or interpreter services should contact the board at least two weeks 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) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TDD

Fair Housing Committee

September 18, 1997 - 8 a.m. -- Open Meeting
Hotel Roanoke, 110 Shenandoah Avenue, Pocahontas Room, Roanoke, Virginia. (Interpreter for the deaf provided upon request)

A meeting of the committee. Persons desiring to participate in the meeting and requiring special

accommodations or interpreter services should contact the board at least two weeks 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) 367-8526, FAX (804) 367-2475, or (804) 367-9753/TDD

NORTHERN VIRGINIA ASSOCIATION OF REALTORS

† September 24, 1997 - 5:30 p.m. -- Open Meeting
8411 Arlington Boulevard, Fairfax, Virginia.

A legislative reception for Northern Virginia elected officials, and candidate rally for House of Delegates incumbents and candidates from Northern Virginia (barbecue picnic).

Contact: Mary Beth Coya, Director, Government Affairs, 8411 Arlington Blvd., Fairfax, VA 22031, telephone (703) 207-3250 or FAX (703) 207-3269.

RECYCLING MARKETS DEVELOPMENT COUNCIL

† September 22, 1997 - 10 a.m. -- Open Meeting
Central Virginia Waste Management Authority, 2104 West Laburnum Avenue, Board Room, Richmond, Virginia. (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss legislation from the 1997 General Assembly which impacted the council. The council was established by the General Assembly in 1993 to develop strategies to enhance the markets for recyclables. Meetings are dependent on a quorum of 10. Subcommittee meetings may be held prior to or after the general council meeting. Call Paddy Katzen for details at (804) 698-4488 or e-mail pmkatzen@deq.state.va.us.

Contact: Paddy Katzen, Special Assistant to the Secretary of Natural Resources, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4488 or FAX (804) 698-4453.

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

RICHMOND HOSPITAL AUTHORITY

Board of Commissioners

September 25, 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

Loan Committee

September 23, 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 M. Surface, Executive Director, Virginia Small Business Financing Authority, 901 E. Byrd St., 19th Floor, Richmond, VA 23219, telephone (804) 371-8254, FAX (804) 225-3384, or (804) 371-0327/TDD ♿

VIRGINIA SOIL AND WATER CONSERVATION BOARD

September 18, 1997 - 9 a.m. -- Open Meeting
Department of Conservation and Recreation, 203 Governor Street, Suite 200, Richmond, 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 or FAX (804) 786-6141.

TRANSPORTATION SAFETY BOARD

September 25, 1997 - 9 a.m. -- Open Meeting
Department of Motor Vehicles, 2300 West Broad Street,
Richmond, Virginia. ♿ (Interpreter for the deaf provided upon request)

A quarterly meeting to discuss and review transportation safety issues in Virginia.

Contact: Angelisa C. Jennings, Senior Management Analyst, Department of Motor Vehicles, 2300 W. Broad St., Richmond, VA 23269, telephone (804) 367-2026.

COMMONWEALTH TRANSPORTATION BOARD

NOTE: CHANGE IN MEETING LOCATION

September 17, 1997 - 2 p.m. -- Open Meeting
Arlington County Board Room, 2100 Clarendon Boulevard, 1 Courthouse Plaza, Room 307, Arlington, Virginia. ♿
(Interpreter for the deaf provided upon request)

A work session of the board and the Department of Transportation staff.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

NOTE: CHANGE IN MEETING LOCATION

September 18, 1997 - 10 a.m. -- Open Meeting
Arlington County Board Room, 2100 Clarendon Boulevard, 1 Courthouse Plaza, Room 307, Arlington, Virginia. ♿
(Interpreter for the deaf provided upon request)

A monthly meeting of the board to vote on proposals presented regarding bids, permits, additions and deletions to the highway system, and any other matters requiring board approval. Public comment will be received at the outset of the meeting on items on the meeting agenda for which the opportunity for public comment has not been afforded the public in another forum. Remarks will be limited to five minutes. Large groups are asked to select one individual to speak for the group. The board reserves the right to amend these conditions. Separate committee meetings may be held on call of the chairman. Contact Department of Transportation Public Affairs at (804) 786-2715 for schedule.

Contact: Robert E. Martinez, Secretary of Transportation, 1401 E. Broad St., Richmond, VA 23219, telephone (804) 786-8032.

TREASURY BOARD

September 17, 1997 - 9 a.m. -- Open Meeting
October 15, 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.

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VIRGINIA VETERANS CARE CENTER

Board of Trustees

September 26, 1997 - 1:30 p.m. -- Open Meeting
Virginia Veterans Care Center, 4550 Shenandoah Avenue,
Roanoke, Virginia. ☎

The annual meeting of the board to review operations.

Contact: Duane A. Kavka, Executive Director, P.O. Box 6334, Roanoke, VA 24017-0334, telephone (540) 857-6974, FAX (540) 857-6954, toll-free 1-800-220-8387, or (540) 342-8810/TDD ☎

Contact: Alex Barron, Environmental Program Analyst, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4119 or FAX (804) 698-4522.

† **September 25, 1997 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia.

A regular meeting.

Contact: Cindy M. Berndt, Department of Environmental Quality, P.O. Box 10009, Richmond, VA 23240, telephone (804) 698-4378.

DEPARTMENT FOR THE VISUALLY HANDICAPPED (BOARD FOR)

October 22, 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 ☎

† **October 15, 1997 - 6 p.m.** -- Public Hearing
James City County Board of Supervisors Room, 101-C Mounts Bay Road, Building C, Williamsburg, Virginia.

† **October 16, 1997 - 6 p.m.** -- Public Hearing
Roanoke County Administrative Center, 5404 Bernard Drive, Roanoke, Virginia.

† **October 24, 1997 - 6 p.m.** -- Public Hearing
James J. McCoart Administration Building, 1 County Complex Court, 4850 Davis Ford Road, Board Chambers, Prince William, Virginia.

November 17, 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 consider **repealing** regulations entitled: **9 VAC 25-90-10 et seq. Oil Discharge Contingency Plans and Administrative Fees for Approval, 9 VAC 25-140-10 et seq. Aboveground Storage Tank Pollution Prevention Requirements, 9 VAC 25-130-10 et seq. Facility and Aboveground Storage Tank Registration Requirements, and adopting** regulations entitled: **9 VAC 25-91-10 et seq. Facility and Aboveground Storage Tank (AST) Regulations.** The purpose of the proposed regulation is to replace three existing AST regulations. It has been drafted to eliminate duplicate inconsistencies and ambiguities between the three regulations and to provide additional information for regulated facilities in requesting regulatory variances.

Statutory Authority: §§ 62.1-44.2, 62.1-44.15 (10), 62.1-44.34:15, 62.1-44.34:15.1, and 62.1-44.34:19.1 of the Code of Virginia.

Contact: L. Samuel Lillard, AST Program Manager, Department of Environmental Quality, 629 E. Main St., Richmond, VA 23219, telephone (804) 698-4276 or FAX (804) 698-4266.

STATE WATER CONTROL BOARD

September 23, 1997 - 7 p.m. -- Public Hearing
Arcadia High School Auditorium, 8210 Lankford Highway, Oak Hall, Virginia.

October 17, 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 **amend** regulations entitled: **9 VAC 25-260-10 et seq. Water Quality Standards.** The purpose of the proposed amendment is to establish a site-specific ammonia standard for Sandy Bottom Branch.

Statutory Authority: §§ 62.1-44.15(3a) and 62.1-44.15(10) of the Code of Virginia.

† **October 15, 1997 - 6 p.m.** -- Public Hearing
James City County Board of Supervisors Room, 101-C
Mounts Bay Road, Building C, Williamsburg, Virginia.

† **October 16, 1997 - 6 p.m.** -- Public Hearing
Roanoke County Administrative Center, 5404 Bernard Drive,
Roanoke, Virginia.

† **October 24, 1997 - 6 p.m.** -- Public Hearing
James J. McCoart Administration Building, 1 County Complex
Court, 4850 Davis Ford Road, Board Chambers, Prince
William, Virginia.

November 17, 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 consider **repealing** regulations entitled: **9
VAC 25-100-10 et seq. Tank Vessel Financial
Responsibility and Administrative Fees for Approval
and adopting** regulations entitled: **9 VAC 25-101-10 et
seq. Tank Vessel Oil Discharge Contingency Plans
and Financial Responsibility Regulation.** The
purpose of the proposed action is to repeal this
regulation and incorporate necessary provisions into a
new regulation for tank vessels transferring or
transporting oil upon state waters which combines the
necessary requirements of two existing tank vessel
regulations.

Statutory Authority: §§ 62.1-44.15 (10), 62.1-44.34:16 and
62.1-44.34:21 of the Code of Virginia.

Contact: Janet C. Queisser, Tank Vessel Program Manager,
Department of Environmental Quality, 629 E. Main St.,
Richmond, VA 23219, telephone (804) 698-4268 or FAX
(804) 698-4266.

† **October 21, 1997 - 2 p.m.** -- Public Hearing
Department of Environmental Quality, 629 East Main Street,
Richmond, Virginia.

November 17, 1997 - Public comments may be submitted
until 4 p.m. on 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 amend regulations entitled: **9 VAC 25-120-10
et seq. General Virginia Pollutant Discharge
Elimination System (VPDES) Permit for Discharges
from Petroleum Contaminated Sites.** The proposed
general permit will regulate discharges of wastewaters
from sites contaminated by petroleum products. This
general permit will replace the Corrective Action Plan
general permit, VAG000002, which expires February 24,
1998.

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.

Request for Comments: The board is seeking comments
from interested persons on the proposed general permit
regulation, as well as comments regarding the costs and
benefits of the proposal or any other alternatives.

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

Comparison with Statutory Mandates: The proposed general
permit regulation does not exceed the specific minimum
requirements of any legally binding state or federal mandate.

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

Contact: Richard Ayers, Technical Services Administrator,
Department of Environmental Quality, P. O. Box 10009,
Richmond, VA 23240, telephone (804) 698-4075 or FAX
(804) 698-4032.

**BOARD FOR WATERWORKS AND WASTEWATER
WORKS OPERATORS**

September 18, 1997 - 9:30 a.m. -- Open Meeting
September 19, 1997 - 9:30 a.m. -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, Conference Room 4 W, Richmond,
Virginia. ☎

The board and invited subject matter experts will conduct
an exam workshop. A public comment period will be
held at the beginning of the workshop. After the public
comment period, the workshop will be conducted in
closed executive session under authority of § 2.1-344 A
11 of the Code of Virginia due to the confidential nature
of the examination. The public will not be admitted to the
closed executive session.

Contact: George O. Bridewell, Examination Administrator,
Department of Professional and Occupational Regulation,
3600 W. Broad St., Richmond, VA 23230-4917, telephone
(804) 367-8572 or (804) 367-9753/TDD ☎

† **October 9, 1997 - 8:30 a.m.** -- Open Meeting
Department of Professional and Occupational Regulation,
3600 West Broad Street, 4th Floor, Richmond, Virginia. ☎

A meeting to discuss regulatory review and other
requiring board action, including disciplinary cases. All
meetings are subject to cancellation. Time of the
meeting is subject to change. Call the board office at
least 24 hours in advance. 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 department so that suitable arrangements

Calendar of Events

can be made. The board 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 or (804) 367-9753/TDD ☎

INDEPENDENT

STATE LOTTERY BOARD

September 24, 1997 - 9:30 a.m. -- Open Meeting
State Lottery Department, 900 East Main Street, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A regular meeting of the board. Public comment will be received at the beginning of the meeting.

Contact: Barbara L. Robertson, Board, Legislative, and Regulatory Coordinator, State Lottery Department, 900 E. Main St., Richmond, VA 23219, telephone (804) 692-7774 or FAX (804) 692-7775.

LEGISLATIVE

ADMINISTRATIVE LAW ADVISORY COMMITTEE

November 12, 1997 - 11 a.m. -- Open Meeting
State Capitol, Capitol Square, House Room 2, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A general business meeting to discuss progress of the committee's studies.

Contact: Lyn Hammond Coughlin, Program Coordinator, Administrative Law Advisory Committee, General Assembly Bldg., 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591 or FAX (804) 692-0625.

VIRGINIA CODE COMMISSION

† **October 29, 1997 - 10 a.m.** -- Open Meeting
† **December 11, 1997 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Street, 6th Floor, Speaker's Conference Room, Richmond, Virginia. ☎

A meeting to review Titles 14.1 (Costs, Fees, Salaries and Allowances) and 17 (Courts of Record) of the Code of Virginia for recodification.

Contact: Jane D. Chaffin, Deputy Registrar, General Assembly Bldg., 2nd Floor, 910 Capitol St., Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 692-0625 or e-mail jchaffin@leg.state.va.us.

JOINT COMMISSION ON TECHNOLOGY AND SCIENCE

† **September 24, 1997 - 10 a.m.** -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room D, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

Senate Bill 923, passed by the 1997 General Assembly provides legal recognition of digital signatures exchanged between private parties and also authorizes the Commonwealth and its agencies, institutions, and political subdivisions to use digital signatures. Senate Bill 923 became effective July 1 of this year; however, the Council on Information Management (CIM) is not required to adopt final regulations to implement Senate Bill 923 until September 1, 1998. Part of this meeting will be a public hearing intended to solicit comments on any refinements to Senate Bill 923 that should be made during the 1998 Session as well as any suggestions to CIM about its regulations. Also included on the agenda are reports from CIM on the status of its regulations and from commission staff on legislation and regulations in other states. To help learn more about digital signatures, the commission is in the process of inviting approximately 10 vendors of digital signature technology to set up demonstrations in the first floor lobby of the General Assembly Building throughout the day on Wednesday, September 24. The public is also invited to the vendor fair. Visit the commission's website at <http://legis.state.va.us/agencies.htm> for more information.

Contact: Diane E. Horvath, Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169 or e-mail dhorvath@leg.state.va.us.

September 24, 1997 - 1:30 p.m. -- Open Meeting
General Assembly Building, 910 Capitol Square, House Room C, Richmond, Virginia. ☎ (Interpreter for the deaf provided upon request)

A meeting to receive reports from advisory committees, information about universal service fund/federal telecommunications act, technology demonstration, and an update on the commission's webpage (<http://legis.state.va.us/agencies.htm>).

Contact: Diane E. Horvath, Director, Joint Commission on Technology and Science, 910 Capitol St., 2nd Floor, Richmond, VA 23219, telephone (804) 786-3591, FAX (804) 371-0169 or e-mail dhorvath@leg.state.va.us.

CHRONOLOGICAL LIST

OPEN MEETINGS

September 15
Alcoholic Beverage Control Board

Chesapeake Bay Local Assistance Board
† Contractors, Board for
Motor Vehicle Dealer Board
- Advertising Committee
- Dealer Practices Committee
- Licensing Committee
- Transaction Recovery Fund Committee
† Pharmacy, Board of

September 16

Environmental Quality, Department of
- Virginia Groundwater Protection Steering Committee
Health Professions, Board of
- Ad Hoc Committee on Criteria
- Nominating Committee
- Practitioner Self-Referral Committee
- Regulatory Research Committee
Medical Assistance Services, Board of
Medicine, Board of
- Informal Conference Committee
Motor Vehicle Dealer Board
- Finance Committee
- Franchise Review and Advisory Committee
Polygraph Examiners Advisory Board

September 17

Conservation and Recreation, Department of
- Fall River Renaissance Committee
Health, State Board of
- Subcommittee on Teen Pregnancy Prevention
Historic Resources, Department of
- State Review Board and Historic Resources Board
Maternal and Child Health Council
Medical Assistance Services, Department of
- HJR 630 Special Task Force
† Medicine, Board of
- Advisory Committee on Physician Assistants
† Nursing, Board of
Transportation Board, Commonwealth
Treasury Board

September 18

Architects, Professional Engineers, Land Surveyors and
Landscape Architects, Board for
- Board for Land Surveyors
Labor and Industry, Department of
- Virginia Apprenticeship Council
Medical Assistance Services, Department of
- Virginia Medicaid Drug Utilization Review Board
† Museum of Fine Arts, Virginia
- Buildings and Grounds Committee
- Communications and Marketing Committee
- Finance Committee
- Board of Trustees
† Nursing and Medicine, Committee on the Joint Boards
of
† Old Dominion University
- Board of Visitors
Real Estate Board
- Education Committee

- Fair Housing Subcommittee
Soil and Water Conservation Board, Virginia
Transportation Board, Commonwealth
Waterworks and Wastewater Works Operators, Board for

September 19

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board of
- Board of Land Surveyors
Correctional Education, Board of
Dentistry, Board of
Family and Children's Trust Fund
† General Services, Department of
- Design-Build/Construction Management Review
Board
† Information Management, Council on
Medicine, Board of
- EMG Task Force Subcommittee
Waterworks and Wastewater Works Operators, Board for

September 20

† Conservation and Recreation, Department of
- Virginia Cave Board
† Housing Development Authority, Virginia

September 22

† Housing Development Authority, Virginia
Medical Assistance Services, Department of
- Pharmacy Liaison Committee
† Nursing, Board of
- Education Special Conference Committee
- Special Conference Committee
† Recycling Markets Development Council, Virginia

September 23

† Architects, Professional Engineers, Land Surveyors
and Landscape Architects, Board of
- Board for Interior Designers
† Charitable Gaming Commission
† Contractors, Board for
- Tradesman Certification Committee
† Information Management, Council on
- Task Force on Land Records Management
Land Evaluation Advisory Council, State
† Marine Resources Commission
† Nursing, Board of
Psychology, Board of
Small Business Financing Authority, Virginia
- Loan Committee

September 24

† Child Fatality Review Team, State
George Mason University
- Board of Visitors
Hazardous Materials Training Advisory Committee, State
Lottery Board, State
† Manufactured Housing Board, Virginia
† Nursing, Board of
† Realtors, Northern Virginia Association of
† Technology and Science, Joint Commission on

Calendar of Events

September 25

Agriculture and Consumer Services, Department of
- Pesticide Control Board
Asbestos and Lead, Virginia Board for
Compensation Board
Dentistry, Board of
- Advertising Committee
† Nursing, Board of
Rehabilitative Services, Board of
Richmond Hospital Authority Board
- Board of Commissioners
Transportation Safety Board
† Water Control Board, State

September 26

Dentistry, Board of
- Legislative/Regulatory Committee
Medicine, Board of
- Legislative Committee
† Pharmacy, Board of
Professional Counselors, Marriage and Family
Therapists and Substance Abuse Treatment
Professionals, Board of Licensed
Veterans Care Center
- Board of Trustees

September 29

Alcoholic Beverage Control Board
Conservation and Recreation, Department of
Labor and Industry, Department of
- Safety and Health Codes Board
- Board of Trustees

September 30

Agriculture and Consumer Services, Board of

October 1

Air Pollution, State Advisory Board on
† Labor and Industry, Department of
- Apprenticeship Council Subcommittee

October 6

Barbers, Board for
† Conservation and Recreation, Department of

October 7

Hopewell Industrial Safety Council
† Museum of Fine Arts, Virginia
- Executive Committee

October 8

† Contractors, Board for
† Juvenile Justice, State Board of

October 9

† Waterworks and Wastewater Works Operators, Board
for

October 14

Disability Services Council

October 15

Alcoholic Beverage Control Board
Asbestos and Lead, Virginia Board for
Conservation and Recreation, Department of
- Fall River Renaissance Committee
Treasury Board

October 16

† Agriculture and Consumer Services, Department of
- Pesticide Control Board

October 17

† General Services, Department of
- Design-Building/Construction Management Review
Board

October 20

† Accountancy, Board for

October 21

† Accountancy, Board for

October 22

† Contractors, Board for
- Disciplinary Board
Visually Handicapped, Board for the

October 23

Fire Services Board, Virginia
- Fire Prevention and Control Committee
- Fire/EMS Education and Training Committee
- Legislative/Liaison Committee
† Game and Inland Fisheries, Board of

October 24

Fire Services Board, Virginia
† Game and Inland Fisheries, Board of

October 27

Alcoholic Beverage Control Board

October 28

† Marine Resources Commission

October 29

Agriculture and Consumer Services, Department of
- Virginia Winegrowers Advisory Board
† Code Commission, Virginia

October 30

† Soil Scientists, Board for Professional

November 5

† Deaf and Hard-of-Hearing, Department for the
- Advisory Board

November 12

Administrative Law Advisory Committee
† Juvenile Justice, State Board of

November 21

† General Services, Department of
- Design-Build/Construction Management Review
Board

December 11

† Code Commission, Virginia

PUBLIC HEARINGS

September 17

Charitable Gaming Commission
Education, Board of
Racing Commission, Virginia

September 23

Charitable Gaming Commission
Water Control Board, State

September 25

† Pharmacy, Board of

October 8

Mines, Minerals and Energy, Department of

October 14

Criminal Justice Services Board

October 15

† State Water Control Board

October 16

† State Water Control Board

October 21

† State Water Control Board

October 23

† Psychology, Board of

October 24

† State Water Control Board

November 5

Criminal Justice Services Board

November 13

† Audiology and Speech-Language Pathology, Board of

December 11

Agriculture and Consumer Services, Board of

